

file LSC**OFFICE OF GOVERNMENTAL RELATIONS AND PUBLIC AFFAIRS**

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FAX COVER

TO: MELANNE VERVEER, CHIEF OF STAFF, FIRST LADY
FAX #: 456-6244
DATE: September 22, 2000
FROM: Mauricio Vivero, Vice President, GRPA
PHONE #: 202.336.8862

NO OF PAGES SENT: 6 (Not including Cover Page)

Please see attached memo and enclosure.



OFFICE OF GOVERNMENTAL RELATIONS AND PUBLIC AFFAIRS

MEMORANDUM

TO: Jac Lew, Director, Office of Management and Budget
Melanne Verveer, Chief of Staff to the First Lady

CC: David J. Haun, Chief, Justice/GSA Branch
Martha Foley, White House Counsel

FROM: Mauricio Vivero, Vice President, GRPA

DATE: September 21, 2000

SUBJECT: Hearing: House Judiciary Commercial and Administrative Law Subcommittee

The House Judiciary Commercial and Administrative Law Subcommittee ("Subcommittee") has informed us of their interest in having a hearing on the Case Service Reporting ("CSR") issue. The hearing date has been set for Tuesday, October 3. The time of the hearing has not been yet confirmed. We have implemented and/or added all the recommendations regarding the CSR data collection system. We are confident we can fully respond to any CSR issues raised by the Subcommittee.

We also believe Chairman George Gekas (R-PA) will want to discuss issues that the Inspector General ("IG"), Edouard Quatrevaux, outlined in his recent letter to Congress. I have included a copy of the IG's letter for your review. Please note that the LSC Board met this weekend, discussed this issue, and LSC Chairman Doug Eakeley is formulating a response to the IG's letter. LSC management is confident that we can respond to all of these issues and will continue to enjoy strong bipartisan support. Should you have additional questions, please contact me at 202-336-8862.

Enclosure

cc: LSC Senior Staff



Legal Services Corporation
For 25 Years, America's
Partner for Equal Justice

September 14, 2000

Inspector General
E.R. Quatrevaux

Honorable Harold Rogers
Chairman
Subcommittee on Commerce, Justice, State,
the Judiciary, and Related Agencies
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing pursuant to the Inspector General Act to offer recommendations concerning existing and proposed legislation affecting the Legal Services Corporation (LSC).

Grant recipients have repeatedly denied the Office of Inspector General (OIG) access to information. Moreover, the actions of the LSC President and Board of Directors have undermined the OIG by encouraging grantees to refuse to provide information to the OIG. Waiving its own statutory right of access, LSC management also has accepted denials of access to records when attempting to conduct its own compliance inspections, and acceded to ineffective inspection procedures suggested by the grantees being inspected.

For these reasons, it is no longer possible to conduct oversight activities efficiently and effectively, and I recommend that the Congress consider the attached statutory language as a remedy. I also recommend that the additional funds requested by LSC for FY 2001 for compliance inspections be put to better use.

Background

Access to information held by LSC grantees has been a long-standing problem. Prior to the 1996 enactment of statutory language providing access to client names and other data, LSC was routinely denied access to such basic information as client name, address, zip code, gender, race, date of birth, financial and other eligibility information, and information otherwise in the public domain, e.g., in court pleadings. Such denials were based on local rules of professional responsibility.

Recognizing that effective oversight and accountability for the use of federal funds could not be accomplished without access to information about clients served, the FY 1996 appropriation made clear that this information was to

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be provided to LSC, regardless of local rules of professional responsibility. The only limitation on access to this information was the attorney-client privilege.

Denials of Access to the OIG

Grantees have continued to deny access to information to the OIG. During a 1999 audit of case statistical data, the Legal Aid Bureau of Maryland asserted local rules of professional responsibility and attorney-client privilege to deny OIG auditors access to information on the type of legal services provided to clients. The basis for denial was an assertion that the combination of client name and legal problem code made the information confidential and privileged.

In response to OIG audit reports of significant inaccuracies in the case statistical information provided to LSC, Congress directed the OIG to "assess the case service information provided by the grantees, and report to the Committees no later than July 30, 2000, as to its accuracy." Although neither the attorney-client privilege nor local rules of professional responsibility applied to the data to be collected by the OIG, we devised a data collection process to alleviate concerns that the linkage of client name and legal problem code was subject to the attorney-client privilege. The system was similar to a so-called "Chinese wall" used in law firms.

Two grantees nevertheless refused to provide the requested information. When the grantees refused to comply with OIG subpoenas, I sought enforcement in U.S. District Court. The grantees asserted that "unique identifiers" could be used in lieu of client names. The OIG evaluated the proposals and concluded that implementation of "unique identifiers" could only be checked by gaining access to the very data that "unique identifiers" were designed to conceal. Without that check, the OIG would be forced to accept an assertion that the "unique identifiers" were properly applied. Therefore, the OIG would be forced to accept the grantee's *assertion as confirmation of the assertion* that the case statistical data was accurate. The Court ordered enforcement, but one grantee appealed and the matter is pending.

In a related action, two sub-grantees and one branch office of Legal Services for New York City filed an action in the U.S. District Court for the Southern District of New York, seeking a declaratory judgment that the OIG has no right to, and the plaintiffs are under no obligation to provide, the data the OIG subpoenaed from Legal Services for New York City. That action is proceeding.

In June 2000 the OIG commenced an evaluation project involving the two LSC grantees in Georgia. The OIG requested data from the grantees, and when access was denied, subpoenaed the data. The grantees refused to comply with the subpoenas, and an action for enforcement will soon be filed in federal court. Their refusal to grant access was based primarily on attorney-client privilege and on local rules of professional responsibility.

LSC Actions Have Undermined OIG Access

In a July 18th letter to the Inspector General, the LSC President requested "in writing an official position stating your legal authority for obtaining the information...

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including a detailed description (of the evaluation)." The letter also questioned the "utility of seeking the non-voluntary disclosure of client data," and stated that management was "not in a position at this time to fully support [the OIG's] action." On July 19, before I could respond, the LSC President publicly questioned the OIG's authority to issue the subpoenas to the Georgia grantees in a press release titled, "LSC MANAGEMENT QUESTIONS INSPECTOR GENERAL'S SUBPOENA'S [sic] TO GEORGIA PROGRAMS. (Enclosed.)

By memorandum, I reminded the LSC President of the express statutory prohibition of interference by the Corporation in the issuance of subpoenas. The LSC President and I met when he returned from the American Bar Association meeting in London. Based on his assurances given at that meeting, I sent a message to all grantees relating the President's position that he had not intended to: (1) question my authority under the Inspector General Act, (2) imply that LSC grantees not comply with the Inspector General Act; and, (3) interfere in the subpoena process. I did so in the hope that grantees would not be encouraged by the press release to refuse the OIG access to information. The next day, the LSC Vice-President for Programs sent a message to all grantees, saying my message "somewhat erroneously describes" my conversation with the LSC President. After discovery of this communication, by memorandum I requested the LSC President to identify which denials were erroneous but have not received a reply.

Shortly thereafter, a representative of the Board of Directors told me that the Board wanted a "justification" for my issuance of the subpoenas in Georgia. He also said that the Board wished to discuss "an appropriate role for the Board" in the subpoena process. I instead provided a legal opinion from OIG Counsel setting forth the statutory authority to issue subpoenas granted by the Inspector General Act. I also advised the Board of Directors that my position was that the Board "has no legitimate role in the subpoena process."

I have heard nothing in response to this memorandum, but have noted that the *Federal Register* notice of the Board's September 18th meeting contains the following Agenda Item:

"Consider and act on report by OIG Liaison John Erlenborn concerning OIG issuance and enforcement of subpoenas on Georgia programs."

LSC Waiver of Statutory Access Authority

Additionally, LSC management has accepted denials of access to records when attempting to conduct its own compliance inspections, and acceded to ineffective inspection procedures suggested by the grantees under review.

After the Legal Aid Bureau of Maryland denied the OIG access to information in 1999, LSC management agreed to a protocol for conducting compliance reviews that accepted "unique identifiers" in lieu of client names. In December 1999, LSC management entered a written agreement with Westchester/Putnam Legal Services to accept "unique identifiers," again waiving its statutory authority.

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In September 1999, LSC management attempted to conduct a compliance review of Legal Aid of Western Missouri, but was refused access to client names and eligibility data (income, assets, citizenship). After ten months of negotiation, in July 2000 LSC management agreed to accept "unique identifiers" from this grantee in lieu of client names. This took place after a court decision confirmed LSC's statutory access and while some OIG court actions on the access issue were pending.

Conclusion

Under prevailing circumstances, it is likely that the Office of Inspector General will have to obtain judicial enforcement of its subpoenas whenever it conducts oversight activities of these recipients of federal funds. It is not possible for the OIG to conduct oversight activities efficiently and effectively under these conditions.

Recommendation

I recommend that the Congress consider modifying the access provisions of current law. Recommended statutory language is attached for your consideration.

Conclusion

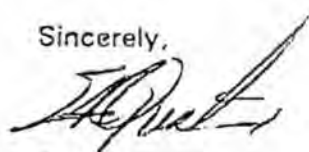
LSC management has demonstrated that it does not intend to use the authority granted by the appropriation statute. The compliance inspection procedures it adopted at the suggestion of grantees are ineffective.

Recommendation

For fiscal year 2001, LSC management has requested "additional M&A funds to strengthen its capacity to ensure compliance with Congressional restrictions enacted in 1996, to monitor and to improve the accuracy of its Case Services Reporting (CSR) system, and to conduct compliance investigations." I recommend that these funds be put to better use.

Please contact me or Assistant IG Laurie Tarantowicz (202 336-8808) if you would like additional information.

Sincerely,



E. R. Quatrevaux
Inspector General

Enclosures



Legal Services Corporation
For 25 years, America's
Partner For Equal Justice

July 19, 2000
**FOR IMMEDIATE RELEASE
STATEMENT**

CONTACT: Catherine Castillo
(202) 336-7265
Mara Mucciolo
(202) 336-8929

LSC MANAGEMENT QUESTIONS INSPECTOR GENERAL'S SUBPOENA'S TO GEORGIA PROGRAMS

Yesterday, Legal Services Corporation's ("LSC") President, John McKay, formally contacted LSC's Inspector General ("IG"), Edouard Quatrevaux, concerning the subpoenas issued to two legal services programs in Georgia. In his communication to the IG, President McKay requested an explanation of the IG's legal authority for obtaining the information sought from the Atlanta Legal Aid Society and Georgia Legal Services Program.

President McKay and LSC management have serious concerns regarding the potential adverse impact these subpoenas will have upon the programs in question. LSC management has reservations with regard to the manner in which the IG has taken action - without advising LSC management, or the use of other less burdensome alternatives.

At this time, LSC management feels it lacks the necessary information to support the IG's action regarding these two programs.

President
John McKay

Board of Directors
Douglas S. Eakeley
Roseland, NJ
Chairman

John N. Erlenborn
Issaquah, WA
Vice Chairman

Hullett H. Askew
Atlanta, GA

LaVeeda M. Battle
Birmingham, AL

John T. Broderick, Jr.
Manchester, NH

Edna Fairbanks-Williams
Fairhaven, VT

F. Wm. McCalpin
St. Louis, MO

Maria Luisa Mercado
Galveston, TX

Nancy H. Rogers
Columbus, OH

Thomas F. Smegal, Jr.
San Francisco, CA

Ernestine P. Watlington
Harrisburg, PA

-30-

***LSC is a private, nonprofit corporation that Congress established in 1974
to ensure equal access to justice for all low-income persons.***

September 2000
Office of Inspector General
Legal Services Corporation

Legislative Recommendation
FY 2001 appropriations act

New Provision:

Notwithstanding any other provision of law or any rule (including rules or codes of professional responsibility or conduct), beginning in fiscal year 2001 and thereafter, each recipient shall, without unreasonable delay, make available to the Corporation (which includes its Office of the Inspector General) and any auditor or monitor receiving federal funds from the Corporation or the recipient any and all records, reports, documents, papers, and any other information available to the recipient, including, but not limited to, information that is subject to the attorney-client privilege or is attorney work product, as requested in order to carry out activities authorized by law. Providing such information shall not constitute a waiver of any privilege, including the attorney-client privilege or the protections accorded attorney work product.

Information provided pursuant to this section that is subject to the attorney-client privilege or the protections accorded attorney work product shall not be disclosed to any person or entity.

Recipients shall notify each applicant for legal assistance that information furnished the recipient is subject to disclosure as provided in this section. The failure of a recipient to so notify an applicant for legal assistance shall not affect the recipient's obligation to afford access as provided in this section.

**Legislative Reference Division
Labor-Welfare-Personnel Branch****Telecopier Transmittal Sheet***file
LSC*

FROM: Anna Briatico

395-7887

DATE: 9/11/95

TIME: _____

Pages sent (including transmittal sheet): 9**COMMENTS:**

Attached is a signed copy of the WHLC/ Justice
letter regarding HR 2277 (Legal Aid Act of
1995).

TO: Bob Litan
Melanne Verveer

PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.



Office of the Attorney General
Washington, D. C. 20530

September 11, 1995

The Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

By this letter and its Appendix we want to convey the Administration's vigorous opposition to H.R. 2277, the Legal Aid Act of 1995. We urge the Committee, in the strongest terms possible, to reject this proposed legislation.

Against the 21-year success of the Legal Services Corporation in delivering a broad array of needed legal services to poor and low-income citizens throughout the country at levels of economy, efficiency, and effectiveness rarely realized in either public or private management, the Legal Aid Act of 1995 would:

- (i) dismantle the well-tested and extraordinarily efficient and effective Legal Services Corporation grants to, and management of, some 300 legal services providers across the nation, and substitute for that system a wholly untested block grant structure to be managed by the Department of Justice and operated through the States;
- (ii) disqualify from eligibility for legal services entire categories of poor and low-income people;
- (iii) disallow from federally funded services many critical causes of action ranging from adoption to constitutional challenges; and
- (iv) set an appropriations course to end federally funded legal services.

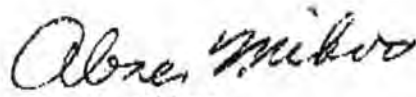
To so narrow the availability and scope of publicly funded legal services, and to scrap a successful system and replace it with a yet-to-be-developed set of both federal and state bureaucracies, is shortsighted. The Legal Aid Act of 1995 makes a mockery of the essential American principle "Equal Justice Under Law." If enacted, the bill will mean for millions the loss of effective, community based legal services and the certainty of continuing and aggravated problems that will cost us dearly in other ways down the line.

We urge you, Chairman Hyde, for these reasons and others detailed in the accompanying Appendix, to oppose this bill and lead the Committee to reject it.

Sincerely,



Janet Reno
Attorney General



Abner Mikva
Council to the President

cc: The Honorable John Conyers, Jr.
Ranking Minority Member

APPENDIX

I. BACKGROUND

Approximately 50% of all low-income households today face at least one problem having a legal dimension. The legal problems low-income people most frequently face include housing problems, family and domestic matters, credit and creditor problems, problems concerning benefits conferred by law, and health and health care-related problems.

Low-income people, however, are very often denied access to justice because they cannot afford legal help. Nearly three-fourths of the low-income people with legal needs do not get help in the civil justice system--not because the Legal Services Corporation is functioning poorly, or because it has diverted its resources to matters other than direct client representation--but simply because the entire civil justice system is overburdened.

When Congress passed the Legal Services Authorization Act in 1974 it was responding to a clear need and acknowledging that a large part of society was barred from effective access to the legal system. For the last 21 years the Corporation has directly channeled federal funding to nonprofit legal services programs serving indigent persons whose rights need protecting. There are more than 300 of these programs nationwide, operating from nearly 12,000 neighborhood law offices.

Corporation programs operate through small, community-based and locally staffed offices headed by independent boards that include members of the local bar and other representative quarters of the community. These offices are available to low-income people in every county of every state, and function as law firms tailored to meet the needs of each community, and the people who staff these offices develop expertise and accumulate institutional and community knowledge that cannot be replaced.

The management of the Corporation is a model for efficient and effective public funding. Only 3% of the Corporation's budget is spent on administrative functions; the remaining 97% is channeled directly to the community-based legal service providers for the delivery of legal services to people in need. This extraordinary ratio of administrative costs to program funding leaves very little room for improvement.

Legal Services Corporation providers nationwide handle over 1.7 million cases each year, improving the lives of families and the quality of life in their communities. Program providers help families secure safe housing, prevent illegal evictions, and

protect clients' health, educational, and employment rights. Approximately 33% of all legal services program cases involve issues of family law; 22% involve protection of housing rights; and more than 75% involve or directly affect the rights of children.

In May of this year the Deputy Attorney General testified before one of your subcommittees to the continuing need for a strong and independent Legal Services Corporation. Judge Mikva also testified to that need, based on his observations from legislative bodies for nearly 20 years and from the federal bench for an additional 15 years. In July Alan Bersin, the United States Attorney for the Southern District of California, also testified to the important role the Corporation plays in law enforcement.

II. THE ILL-CONCEIVED PROVISIONS OF H.R. 2277

Against this backdrop of legal needs and the Corporation's extraordinary record of service and efficiency, the provisions of H.R. 2277 are badly flawed.

A. THE SYSTEM OF BLOCK GRANTS

We are very strongly opposed to the bill's system of block grants to be administered by unknown state entities.

First, this proposal would not save money. The bill would allow each state to retain as an administrative fee 5% of each federal grant it processes. Currently, however, only 3% of the Corporation's budget is spent on administrative functions with the remainder going directly to the delivery of legal services. The Corporation involves a staff of approximately 125 experienced people and operates at an exceptionally high level of economy, efficiency and effectiveness. None of these important and rarely achieved goals would be served by dissolving this small, experienced and specialized group and providing for a larger fee to be charged by the states.

Second, jeopardizing the well-established system of neighborhood law offices with experienced attorneys trained to meet local legal needs would be extremely wasteful. To disrupt the current, proven structure for providing legal services to the poor and replace it with an as-yet undeveloped system that by its very nature would involve or create a new layer of bureaucracy in each of the fifty states would decrease both the quality and quantity of legal services available to the poor and the working poor. Years of institutional knowledge and expertise would be lost.

Third, the bill's provisions for individual contracts obtained by bids risk the result of second-class justice. Because it appears that only individuals may bid on these contracts, low-income persons will lose the benefit of the expertise developed by local legal services offices over the last 21 years. The critical function of these local offices as magnets, or clearinghouses, would also be destroyed, thwarting the approximately 130,000 attorneys nationwide engaging in pro bono activities each year but needing a mechanism to do so. Similarly, the bill's proposed contracts are for a short duration--one year--which presents the very real danger of lack of continuity in representation and disruption to pending cases.

Fourth, the involvement of state governmental units in the administration of legal services for private persons would present the inevitable potential for conflicts of interest. Legal providers would hesitate to represent clients whose cases, while highly meritorious, challenge a flawed law or governmental practice. A provider whose funding could be terminated for advancing a legitimate claim on behalf of his or her client is put in an unfair position.

Finally, oversight would not be improved. This Committee has for 20 years very capably overseen the operations of the Corporation. To delegate this important function to unspecified state bureaucracies with no experience in such oversight simply is not responsible.^{1/}

B. THE JUSTICE DEPARTMENT'S ADMINISTRATION OF THE GRANT PROGRAM

We are also very strongly opposed to the provision that the Department of Justice administer the grant system.

First, this system would not increase efficiency or save money. As stated above, the Corporation consumes only 3% of its budget on administrative expenses. The bill allows states to withhold 5% of all grant amounts as administrative expenses; this amount is in addition to the increased costs the Justice Department would incur in overseeing this program, and that the public would have to bear.

Second, involvement in the delivery of legal services to poor and low-income people is outside the scope of, and fundamentally inconsistent with, the primary mission of the Justice Department. The Department's primary responsibilities

^{1/} Further, because the bill provides for a 50% decrease in funding from 1996 to 1997 and no funding for 1998, states may lack the incentive to create permanent, efficient offices to administer these grants.

are criminal and civil law enforcement directly and exclusively in the interests of the United States and its constituent executive branch agencies. Even indirect involvement in the litigation of private interests has never been the job of the Department.

Third, the independent and exclusive mission of the Corporation is an important aspect of its professionalism and effectiveness for its clients. Access to independent legal advice and services is the essence of the civil justice equality we are trying to achieve, and that goal is best achieved by a single-purpose entity such as the Corporation.

Fourth, it makes no sense to federalize, or involve state governments in, functions relating to the network of legal services programs that operate so efficiently and effectively at the community level. At a time when the Justice Department is grappling with so many issues pertaining to law enforcement, public safety and justice reform, and is trying to consolidate functions and simplify its operations, the addition of a substantial and wholly unrelated administrative task would be inconsistent with the goal shared by all agencies--reducing size and doing more with less.

C. LIMITATIONS AND RESTRICTIONS ON THE PROVISION OF LEGAL SERVICES

The bill so severely limits all aspects of representation that the fundamental concept of a lawyer having the independence to zealously represent his or her client would simply not apply to the bill's supposed beneficiaries. The following examples, while not comprehensive, are among the most troubling in the bill:

1. LIMITATIONS ON A STATE'S USE OF ITS OWN MONEY.

One of the bill's most misguided provisions dictates that if a state receives grant money from the federal government and also distributes its own funds to legal service providers the state must require that only "qualified clients," as defined under the federal bill, receive "qualified legal services," again as defined under the bill, pursuant to the bill's laundry list of restrictions limiting the uses of federal grant money. In other words, the federal government restricts in the bill the rights of all 50 states to spend their own money as they wish in funding legal services, including actions between two residents of a given state--or between that state and one of its citizens--in a case pending in that state's own courts.

This extraordinary provision is overreaching and inconsistent with the underlying idea that states are capable of regulating the administration of the legal affairs of their

citizens with greater efficiency and wisdom than the Corporation's community-based offices. While the thrust of the bill appears to be to provide states with more discretion and more authority, the logic behind this provision limiting state authority is difficult to fathom.

2. "QUALIFIED" CLIENTS

The bill dramatically limits those who may even apply for legal services, excluding entire categories of now-eligible people who are the most likely to be in need. Its definition of a "qualified client" -- a client who is eligible to receive legal assistance from a provider -- is limited to United States citizens and certain aliens admitted for permanent residence. This definition would unconscionably deprive many legally-admitted, low-income aliens of access to the civil justice system while they are lawfully in the United States.

3. "QUALIFIED" CAUSES OF ACTION.

The bill's listing of "qualified" causes of action which may be funded by grant money is not only very small but, most extraordinarily, excludes a number of commonly brought and long-eligible claims such as paternity, adoption, foster care, guardianship, hiring discrimination and wage claims, as well as actions to protect the rights of the physically disabled. Clients with legal problems that do not fit neatly into a predesignated pigeonhole are foreclosed from representation, no matter how meritorious their cases.^{2/}

Equally offensive is the specific exclusion of "any challenge to the constitutionality of any statute." This limitation is illogical and unjustifiable; it should be the right of every citizen and legal immigrant to have meaningful access to the protection of the Constitution regardless of his or her financial means. Under the bill, if a state were to pass a statute denying a particular group due process or equal protection, or blurring the line between church and state or limiting free speech, low-income persons would be denied the constitutional protections they are due and that are available to those with money.^{3/}

^{2/} Further, even within the context of this limited set of eligible cases the bill restricts attorneys representing poor and low-income persons from engaging in numerous, perfectly legal activities on their behalf.

^{3/} Indeed, if a pending case were to have a constitutional issue injected by an opponent or late-arriving third party, an attorney funded with grant money would be placed in the ethical bind of having to forego the assertion of a meritorious defense

4. ATTORNEYS FEES

The bill anomalistically provides that legal service providers may not, under any circumstances, collect attorneys fees from parties in litigation initiated by their clients. Thus in the case of a state statute that automatically awards fees to prevailing plaintiffs as part of an enforcement mechanism, or a state court judge who seeks to award discretionary attorneys fees against a private attorney for engaging in frivolous conduct wasting the court's time and that of a publicly-funded legal services provider, the provider is barred from accepting the compensatory award. This provision again treads, without reason, on state practice.

D. THE APPROPRIATION CEILING

Finally, the bill imposes for fiscal years 1996 and 1997 increasingly lower ceilings--\$278 million and \$141 million respectively--on future appropriations for the grant program. This is yet another indication of the sponsors' not-so-secret intent to terminate federally funded legal services altogether. This year's appropriation of \$400 million, while far greater than the 1996 and 1997 authorizations provided in H.R. 2277, fell far short of the funding truly needed. If the Committee is serious about legal services, however their delivery is structured, any reauthorization bill should simply authorize the appropriation of such sums as may be necessary rather than impose an artificial ceiling.

CONCLUSION

For the reasons outlined above, the Administration vigorously opposes passage of H.R. 2277, the Legal Aid Act of 1995, and respectfully urges the Committee to defeat it and to reauthorize the Legal Services Corporation.

or withdraw from the case leaving his or her client to attempt a pro se defense.

REPORT DATE 09/29/94
REPORT TIME 10:20AM

file

20th Anniversary of the Legal Services Corporation -
Thursday, September 29, 1994 - 04:00PM
Contact Social Office X6310

THE PRESIDENT AND MRS. CLINTON

A Hon. Eleanor Acheson
Assistant Attorney General, Department of Justice
U Hon. (Amb.) Madeleine K. Albright
U.S. Representative to the United Nations
A Hon. Shelia Anthony
Assistant Attorney General for Legislative & Intergovernmental
Affairs, Department of Justice
A Mr. Ramon Arias
Executive Director, San Francisco Neighbourhood Legal Assistance
Foundation
A Ms. Barbara R. Arnwine
Lawyers' Committee for Civil Rights Under Law
A Ms. Barbara Asante
Legal Services Corporation
A Mr. Jonathan Asher
Executive Director, Legal Aid Society of Metropolitan Denver
A A Mr. & Mrs. Hulet H. Askew (Gathy)
Member, LSC Board of Directors
A Miss Caroline Askew
A Mr. Clinton Bamberger
Baltimore, MD
A Ms. Patricia Batie
Legal Services Corporation
A A Ms. LaVeeda Morgan Battle & Mr. Lynn Battle
Member, LSC Board of Directors
A Ms. Martha Bergmark
Legal Services Corporation
A Hon. (Rep.) Howard L. Berman
House of Representatives
A Mr. Jeff Blatner
Chief Counsel, Senate Judiciary Subcommittee on Immigration and
Refugee Affairs
A Hon. Mary Bourdette
Deputy Assistant Secretary for Legislation, Department of Health
& Human Services
A A Justice & Mrs. William J. Brennan (Mary)
The Supreme Court of the United States
A R Mr. John Broderick
Manchester, NH
A Hon. (Rep.) Jack Brooks
House of Representatives
A A Mr. & Mrs. John G. Brooks (Miriam B.)
Member, LSC Board of Directors

REPORT DATE 09/29/94

REPORT TIME 10:20AM

20th Anniversary of the Legal Services Corporation - September 29, 1994

A Ms. Paulette Brown
President, National Bar Association

A Hon. Carol M. Browner
Administrator, Environmental Protection Agency

A Hon. (Rep.) John W. Bryant
House of Representatives

A Ms. Mary Burdick
Executive Director, Western Center on Law & Poverty

A Ms. Sandy Cappola

A Mr. Danilo Cardona
Legal Services Corporation

A A Hon. & Mrs. Henry Cisneros (Mary)
Secretary of Housing & Urban Development

A Ms. Julie Clark
NLADA

A Mr. Robert Clyde
Ohio Civil Legal Needs Assessment Committee

A Mr. Willie E. Cook, Jr.
Executive Director, Neighborhood Legal Services/District of
Columbia

A Mr. Leroy Cordova
Texas Equal Access to Justice

A Mr. Roger Cramton
Cornell Law School

A Mr. Jack Curtin
Boston, MA

A Hon. Lloyd Cutler
White House Counsel

A Mr. Talbot "Sandy" D'Alemberte
Miami, FL

A Judge Howard Dana
Cumberland County Courthouse

A Hon. Drew S. Days III
Solicitor General, Department of Justice

A Mr. Horace B. Deets
Executive Director, American Association of Retired Persons

A Hon. Walter E. Dellinger III
Assistant Attorney General, Department of Justice

A Mr. Lyle Denniston
Baltimore Sun

A Mr. Paul J. Drolet
Chief Counsel, House Administrative Law & Government Relations
Subcommittee

A Mr. Benjamin Eakeley

A A Mr. & Mrs. Douglas S. Eakeley (Priscilla)
Chairman, LSC Board of Directors, Riker, Danzig, Scherer, Hyland
& Perretti

REPORT DATE 09/29/94
REPORT TIME 10:20AM

20th Anniversary of the Legal Services Corporation - September 29, 1994

A Mr. Peter B. Edelman
Counselor to the Secretary, Department of Health & Human Services

A Hon. Christopher Edley
Office of Management & Budget

A Mr. Tom Ehrlich
President, Indiana University

A Mr. Steve Engelberg
Monsanto Company

A Hon. Michael Espy
Secretary of Agriculture, Department of Agriculture

U Ms. Cecilia Esquer, Esq.
University of Arizona College of Law

A Mr. Robert Evans
American Bar Association

U Mr. Michael Faenza
President & CEO, National Mental Health Association

A Ms. Edna Fairbanks-Williams
Member, LSC Board of Directors

A Mr. Alexander D. Forger
President, Legal Services Corporation

A Mr. Victor Fortuno
Legal Services Corporation

A Hon. (Rep.) Barney Frank
House of Representatives

A Mr. Leonard Garment
Former Counsel to the President on Arts Matters, Dickstein,
Shapiro and Morin

A Mr. Joseph Gladden
General Counsel, Coca Cola Company

A Hon. Jamie S. Gorelick
Deputy Attorney General, Department of Justice

A Mr. Mike Greco
Wellesley Hills, MA

U Mr. James Head
Executive Director, National Economic Development and Law Center

A Hon. (Sen.) Ernest F. Hollings
United States Senate

A Mr. Alan W. Houseman
CLASP

A Ms. Jolen Huerta
Western Center Law & Order CRCA

A Mr. R. William Ide
Long, Aldridge & Norman

A Mr. David Isball
Covington and Burling

A Hon. Les Jin
General Counsel, US Information Agency

REPORT DATE 09/29/94

REPORT TIME 10:20AM

20th Anniversary of the Legal Services Corporation - September 29, 1994

A A Justice & Mrs. Earl Johnson (Barbara)
Los Angeles, CA

A Ms. Lillian Johnson
Executive Director, Community Legal Services

A Ms. Elaine Jones
Director/Counsel, NAACP Legal Defense and Education Fund

A Hon. Vernon E. Jordan, Jr.
Akin, Gump, Strauss, Hauer & Feld

A Mrs. Margaret Young

A A Hon. (Amb.) Mickey Kantor & Ms. Heidi Schulman
United States Trade Representative

A Hon. Robert Kastenmeier
Arlington, VA

U Mr. John F. Kennedy, Jr.
PR New York

A Ms. Jennifer Klein

A Mr. John Lane

A Ms. Esther Lardent
Washington, DC

A Mr. Laurence M. Lavin
Executive Director, National Health Law Program

A Mr. Anthony Lewis
The New York Times

A Mr. Stacy Lloyd

A Mr. Dwight Loines
New York, NY

A Mr. Charles Lovelace
AFSME

A Mr. Clinton Lyons
National Legal Aid & Defender Association

A Mr. John W. Martin
Vice President and General Counsel, Ford Motor Company

A A Mr. & Mrs. F. William McCalpin (Margaret)
Member, LSC Board of Directors

A Ms. Mary McClymont
Ford Foundation

A Mr. Robert McCracken
Manitowoc, WI

A Hon. Nancy McFadden
Deputy Associate Attorney General, Department of Justice

A Mr. Harrison McIver
Project Advisory Group

A Mr. John McKenzie
The New York Times

A Ms. Susan Willens

U Hon. Thomas F. "Mack" McLarty
Counselor to the President

20th Anniversary of the Legal Services Corporation - September 29, 1994

A Mr. Stacy Lloyd
Mellon Offices

A Mr. Stacy B. Lloyd

A Ms. Maria Luisa Mercado
Member, LSC Board of Directors

A Mr. Randy Chapman

A Hon. Cynthia Metzler
Assistant Secretary for Administration and Management, Department
of Labor

A Hon. (Judge) Abner J. Mikva
Chief Judge, U.S. Court of Appeals District of Columbia Circuit

A Mr. Melville D. Miller
Executive Director, Legal Services of New Jersey

A Mr. Larry Mitchell
Director of Government Relations, National Farmers Union

U Hon. (Rep.) Alan B. Mollohan
(D/West Virginia). House of Representatives

A A Mr. & Mrs. Bruce Morrison (Nancy)
Chairman, Americans for a New Irish Agenda, Morrison & Swaine

A Mr. Archibald Murray
Executive Director, Legal Aid Society of New York City

A Mr. Ralph G. Neas
Leadership Conference on Civil Rights

U Hon. (Sen.) Sam Nunn
United States Senate

A Ms. Jane O'Grady
AFL CIO

A Hon. Louis F. Oberdorfer
U.S. District Court District of Columbia

A Mr. Revis Ortique
New Orleans, LA

A Mr. John Osthaus
House Appropriations Subcommittee on Commerce, Justice, State,
the Judiciary and Related Agencies

A Ms. Catharine Ozer
Executive Director, National Family Farm Coalition

A Hon. Leon E. Panetta
Chief of Staff to the President

A Mr. Deval L. Patrick
Assistant Attorney General for Civil Rights, Department of
Justice

A Hon. Federico Pena
Secretary of Transportation

A Ms. Linda Perle
CLASP

A Hon. John Podesta
Assistant to the President & Staff Secretary

REPORT DATE 09/29/94
REPORT TIME 10:20AM

20th Anniversary of the Legal Services Corporation - September 29, 1994

A Ms. Deborah Pollack
Feldesman, Tucker
A Mr. Ron Pollock
Families USA
A Mr. Lonnie Powers
President, NLADA
A Mr. Llewelyn Pritchard
Seattle, WA
A Hon. Harriet Raab
General Counsel, Department of Health and Human Services
A Mr. Thomas Railsback
Washington, DC
A Mr. Franklin D. Raines
Vice Chairman and General Counsel, Fannie Mae
A A Dr. & Mrs. Barry W. Ramo (Robertta)
Albuquerque, NM
A Miss Jennifer Ann Ramo
A Mr. Henry Ramsey, Jr.
Office of the Dean, UDC
A Hon. Janet Reno
Attorney General, Department of Justice
A Ms. Linda Rexer
President, National Association of IOLTA Programs
A Mr. David Richardson
Legal Services Corporation
A Hon. Richard W. Riley
Secretary of Education
A Ms. Yvonne Robertson
Legal Services Corporation
A Ms. Nancy Hardin Rogers
Member, LSC Board of Directors
A Mr. Ronald P. Rosello
Bronx, NY
A Mr. John M. Rosenberg
Executive Director, Appalachian Research and Defense Fund
A Ms. Dianne Rouse
Legal Services Corporation
A Mr. Louis Rulli
Community Legal Services
A Mr. Leslie Russell
Legal Services Corporation
A Ms. Peggy Santos
Dorchester, MA
A Rabbi David Saperstein
Director, Religious Action Center of Reform Judaism
A Mr. Donald A. Saunders
Project Advisory Group

20th Anniversary of the Legal Services Corporation - September 29, 1994

A Ms. Bari Schwartz
Office of Rep. Howard Berman

A Ms. Dorothy Seder
Senator Hollings' Staff, Senate Appropriations Subcommittee on
Commerce, Justice, State, the Judiciary and Related Agencies

A Ms. Patricia Shakow
The Washington Post

A Hon. Dornia E. Shalala
Secretary of Health & Human Services

A Mr. John J. Sheehan
Legislative Director, United Steel Workers

A Mr. Jarome J. Shestack
Wolf, Block, Schorr & Solis-Cohen

A Hon. Sargent Shriver
Fried, Frank, Harris, Shriver & Jacobson

A Mr. Antone Singsen
Watertown, MA

A Mr. Thomas Smegal III
Piedmont, CA

A Mr. Thomas F. Smegal, Jr.
Member, LSC Board of Directors

A Mr. Chesterfield Smith
Miami, FL

A Mr. William Reece Smith, Jr.
Tampa, FL

A Ms. Rosita Stanley
Macon, GA

A A Mr. & Mrs. Jonathan Steinberg (Marianne)
US Court of Veterans Appeals

A Mr. Larry Sturgeon
Project Advisory Group, NLADA

A Ms. Fern Schair Sussman
Executive Secretary, Association of the Bar of the City of New
York

A Mr. David Tatel
Chair, Hogan & Hartson

A Mr. Stuart Taylor
American Lawyer/Legal Times

A Mr. Richard M. Taylor, Jr.
Executive Director, Legal Services of North Carolina

A Mr. Maurice Templesman
Leon Templesman & Son

A Hon. Fernando Torres Gil
Assistant Secretary for Administration on Aging, Department of
Health & Human Services

A Ms. Nina Totenberg
National Public Radio

REPORT DATE 09/29/94

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20th Anniversary of the Legal Services Corporation - September 29, 1994

A Mr. Michael B. Trister
Lichtman, Trister, Singer & Ross

A Mr. Anh-Huong Phi Tu
Legal Services Corporation

A Ms. Marna Tucker
Feldesman, Tucker, Leifer, Fidell & Bank

A Hon. John E. Tull, Jr.
Commissioner, Commodity Futures Trading Commission

A Hon. (Dr.) Laura D'Andrea Tyson
Chairman, Council of Economic Advisers

U Mr. Charles E.K. Vasaly
Executive Director, Legal Services of Northern Virginia, Inc.

A A Mr. & Mrs. Richard Warden (Barbara)
United Auto Workers

A Ms. Ernestine P. Watlington
Member, LSC Board of Directors

A Ms. Elaine Weiss
Regional Director, Department of Health & Human Services

A Ms. Kathleen Welch
National Association of Public Interest Lawyers

A Mr. Fred Wartheimer
President, Common Cause

A Mr. William Whitehurst
Austin, TX

A Ms. Marjorie Wilkerson

A Hon. Judith A. Winston
General Counsel, Department of Education

A A Mr. & Mrs. George Wittgraf (Victoria)
Sayre & Wittgraf

A Ms. Laurie Zelon
Morrison & Forster

REPORT DATE 09/29/94

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20th Anniversary of the Legal Services Corporation - September 29, 1994

REGRETS

R Hon. (Mayor) Dennis Archer
Mayor, City of Detroit, MI

R Hon. Bruce Babbitt
Secretary of the Interior

R Hon. (Sec.) Lloyd Bentsen
Secretary of the Treasury

R Hon. (Sen.) Joseph R. Biden, Jr.
United States Senate

R Ms. Brooksley Born
Arnold & Porter

R Mr. Steven Brobeck
Executive Director, Consumer Federation

R Mrs. Patricia Broderick

R Hon. Ronald H. Brown
Secretary of Commerce

R Hon. Jesse Brown
Secretary of Veterans Affairs, Department of Veterans Affairs

R Hon. (Dr.) Lee P. Brown
Director, Office of National Drug Control Policy

R Hon. (Sen.) Dale Bumpers
United States Senate

R Mr. George Bushnell
Detroit, MI

R Mr. John Carr
U.S. Catholic Conference

R Hon. Warren M. Christopher
Secretary of State, Department of State

R Mr. Thomas Cochran
Executive Director, U.S. Conference of Mayors

R Hon. (Sen.) Pete V. Domenici
United States Senate

R Mr. John Douglas
National College of District Attorneys

R Ms. Marian Wright Edelman
President, Children's Defense Fund

K Hon. (Rep.) Don Edwards
House of Representatives

R Hon. (Rep.) Hamilton Fish, Jr.
House of Representatives

R The Speaker
House of Representatives

R Mr. M. Victor Geminiani
Executive Director, Legal Aid Society of Hawaii

R Hon. (Rep.) Richard Gephardt
House of Representatives

REPORT DATE 09/29/94
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20th Anniversary of the Legal Services Corporation - September 29, 1994

R Hon. Albert Gore
The Vice President

R Ms. Antonia Hernandez
President, Mexican American Legal Defense & Educational Fund

R Hon. Webster Hubbell
G. William Miller & Co., Inc.

R Hon. (Sen.) James M. Jeffords
United States Senate

R Mr. Charles Kamasaki
Senior Vice President, National Council of La Raza

R The Reverend Fred Kammer, S.J.
President, Catholic Charities, USA

R Hon. Nicholas deB. Katzenbach
Riker, Danzig, Scherer, Hyland & Perretti

R Hon. (Sen.) Edward M. Kennedy
United States Senate

R Ms. Merceria L. Ludgood
Executive Director, Legal Services Corporation of Alabama

R Hon. (Rep.) Dave McCurdy
(D/Oklahoma), House of Representatives

R Mr. Stephen McIntyre
Lubbock, TX

R Ms. Christine T. Milliken
Executive Director, National Association of Attorneys General

R Hon. (Sen.) George J. Mitchell
United States Senate

R Hon. Hazel R. O'Leary
Secretary of Energy

R Hon. (Rep.) David R. Obay
House of Representatives

R Mr. Jose Padilla
Executive Director, California Rural Legal Assistance

R Hon. William Perry
Secretary of Defense, Department of Defense

R Mr. William T. Pound

R Hon. Lewis F. Powell, Jr.
Associate Justice, The Supreme Court of the United States

R Mr. Hugh Price
Urban League

R Mr. Robert D. Raven
Morrison & Foerster

R Hon. Robert B. Reich
Secretary of Labor

R Hon. (Dr.) Alice Rivlin
Director, Office of Management & Budget

R Mr. David Rockefeller, Jr.
Vice Chairman, Rockefeller Financial Services Inc.

REPORT DATE 09/29/94
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20th Anniversary of the Legal Services Corporation - September 29, 1994

R Hon. (Rep.) Harold D. Rogers
House of Representatives
R Hon. Warren B. Rudman
Washington, DC
R Ms. Caroline Kennedy Schlossberg
New York, NY
R Ms. Ada Shen-Jaffe
Executive Director, Evergreen Legal Services
R Mr. Terry Shumaker
Gallagher, Callahan & Gartrell
R Ms. Adele Simmons
President, John D. & Catherine T. MacArthur Foundation
R Hon. (Sen.) Arlen Specter
United States Senate
R Mr. Franklin Thomas
President, The Ford Foundation
R Mr. Richard Trumka
President, United Mine Workers of America
R Mr. Paul Ward
New Castle, PA

THE WHITE HOUSE**Office of the Press Secretary****For Immediate Release****August 6, 1993****PRESIDENT NAMES LEGAL SERVICES CORPORATION MEMBERS**

President Clinton nominated nine individuals to be members of the Board of Directors of the Legal Services Corporation today. They are:

Hulett Hall Askew
Laveeda Morgan Battle
John T. Broderick, Jr.
John G. Brooks
Douglas S. Eakely
F. William McCalpin
Maria Luisa Mercado
Nancy Hardin Rogers
Thomas F. Smegal

In addition, the President announced his intention to nominate two additional members:

Edna Fairbanks-Williams
Ernestine P. Watlington

The LSC was established in 1974 is to provide equal access to justice through the provision of "high quality legal assistance to those would be otherwise unable to afford adequate legal counsel". The Board of Directors supervises and directs the activities of the Corporation, which provides support for indigent clients in non-criminal cases.

Hulet Hall Askew is currently the Executive Director of the Georgia Chief Justice's Commission on Professionalism and the Director of the Office of Bar Admissions, positions he has held since 1990. Previously, Askew spent seven years at the National Legal Aid & Defender Association and seven years in various positions at the LSC, where he was Director and Deputy Director of the Office of Field Services. He also served as Regional Director and the Deputy Regional Director in the Atlanta Regional Office both with LSC and its predecessor, the Office of Economic Opportunity.

(more)

Legal Services Corporation
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Laveeda Morgan Battle is an attorney in private practice in Alabama, specializing in employment discrimination and public utility regulation law. She previously served in the public sector, including positions as an Administrative Law Judge with the Equal Employment Opportunity Commission and as General Counsel to the Governor of Alabama's Public Staff for Utility Consumer Protection. A leader of the Alabama bar, she is the past President of the Alabama Lawyers Association. Battle's commitment to legal services for the poor dates to the beginning of her legal career, when she worked for two years as the Managing Attorney of the Birmingham Area Legal Services.

John T. Broderick, Jr. is in private practice in a small New Hampshire law firm. Mr. Broderick was the President of the New Hampshire Bar Association and the New Hampshire Trial Lawyers Association. The New Hampshire Bar has been at the forefront of the organized bar effort to preserve legal services.

John G. Brooks has been in private practice in the Boston law firm of Peabody & Arnold since 1937, and has served as President of the Boston Bar Association, Chairman of the Massachusetts Board of Bar Overseers and member of the Board of Delegates of the Massachusetts Bar Association. Since the 1950s, he has been an articulate and committed advocate of expanding legal access for the poor, leading in the fights for the creation and protection of the LSC and serving as President of Greater Boston Legal Services, President of the National Legal Aid and Defender Association and Member of the American Bar Association Special Committee on Access to Justice.

Douglas S. Eakely has spent most of his career in private practice, first in New York and then in New Jersey. He recently served two years as New Jersey's First Assistant Attorney General. Mr. Eakely has long been involved in Legal Service issues, having served both as Counsel and Chairman of the Board of Trustees of Legal Services of New Jersey.

F. William McCalpin was appointed by President Carter to the Board of the Legal Services Corporation and served as its Chair from 1980-81. During his tenure on the Board, he fought attempts to slash LSC's budget and to scale back its mandate. He is also a leader of the national bar, having served as immediate past President of the National Legal Aid and Defender Association, past Secretary of the American Bar Association, past Chairman of the Fellows of the American Bar Foundation, and past President of the St. Louis Bar Association.

(more)

Legal Services Corporation
page three

Maria Louisa Mercado, a partner in a Lubbock, Texas law firm, has devoted her legal career to social justice and equity issues. Born in Mexico, she was brought to Texas by her family as a child. She worked two years at West Texas Legal Services as a staff attorney and six years as an Assistant Texas Attorney General in the Consumer Protection Division before opening a private practice. Long active in Mexican-American causes, she is on the Board of the Mexican American Legal Defense Fund.

Nancy Hardin Rogers is a Professor and Associate Dean at the Ohio State University of Law where she specializes in dispute resolution issues. She has written extensively on mediation and other dispute resolution techniques and is prominent in many national and state organizations addressing these issues, including serving as Chair of the American Bar Association Committee on Dispute Resolution. Rogers began her legal career as a staff attorney with the Legal Aid Society of Cleveland, and continued her commitment to the provision of legal services to the poor after joining the faculty at Ohio State University by teaching a clinical program that served primarily low income clients.

Thomas F. Smegal, Jr. is a private practitioner specializing in intellectual property law. He was appointed by President Reagan to the Board of the Legal Services Corporation in 1984, and led the fight against the Administration's efforts to reduce the budget and scope of the LSC. He has also been a leader of the California Bar, serving as Vice President of the Board of Governors of the State Bar of California, President of the Bar Association of San Francisco, President of the Legal Aid Society of San Francisco and Chair of the ABA Section Officers Conference.

Edna Fairbanks-Williams has been involved in legal services to the poor at the local, state and national levels. She has served on the Board of Director of Vermont Legal Aid, Inc. for over twenty years. She has served as the President of the Board since 1978. Fairbanks-Williams was an original member of the Vermont Low Income Advocacy Council, a client-elected organization of which she still serves as an officer. She has also worked on behalf of low-income persons outside of Vermont. She now serves on the Advisory Committee to the Northeast Regional Training Center, which offers training to legal services programs throughout New England. Fairbanks-Williams has a G.E.D., and currently works as a volunteer in the area of problems affecting low income children.

(more)

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Ernestine P. Watlington has served on the Board of Directors of the legal services program covering Harrisburg and Lancaster, Pennsylvania, and currently serves as President of the Law Coordination Center, which provides support to local legal services programs in Pennsylvania. She also serves on the Board of the National Economic Development and Law Center, a national legal services center supporting economic and community development initiatives across the country. In 1981, after 14 years working in community organizing for a Community Action Agency, Watlington founded Harrisburg Community and Economic Affairs, Inc., which aids low income persons to develop and maintain their own programs in their neighborhoods. Watlington completed the 11th grade in 1950, left school, and then earned a degree in 1970.

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file
*LSC*MEMORANDUM

TO: LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

FROM: DOUGLAS S. EAKELEY *DSE*
CHAIRMAN

DATE: November 12, 1993

RE: INITIAL COMMITTEE ASSIGNMENTS

Enclosed are the initial committee assignments. I have tried to make sure that everyone received his or her first or second choice. As you will note, I have also assigned oversight responsibility for each of the Corporation's divisions to one of the three permanent committees, so that the Board will be able to fulfill its fiduciary responsibilities. These assignments are preliminary, and subject to such further adjustments as the Board may care to make.

I have asked representatives of the Project Advisory Group, National Legal Aid and Defender Association and American Bar Association Standing Committee on Legal Assistance and Indigent Defendants to help put together one or more panels for discussion at our next meeting. That discussion will focus on the appropriate role and mission of the Legal Services Corporation. I have also taken a fast crack at articulating my own views on this subject, which I presented to the Civil Caucus at the NLADA Convention in Albuquerque this past Wednesday. A copy of my remarks is enclosed.

We have a great deal to do. As a first priority, however, I believe three interrelated issues confront us: (1)

approval of the budget for this current year (FY 1994, which commenced October 1, 1993); (2) assessment of the commitment and capabilities of current LSC staff to accomplish the objectives of the Corporation; and (3) analysis of the effectiveness of the Corporation's existing programs in fulfilling its statutory objectives. Prior to the next Board meeting each Committee will hopefully be able to meet (or at least confer telephonically), solicit input from LSC staff, prior Committee chairs, and other sources, and develop some initial conclusions and recommendations on these matters for discussion at the Board meeting.

At the very least, for the reasons described in my letter to President O'Hara (also enclosed), we must be in a position to approve a budget for the current year. I would also hope that we could agree upon a revised "budget mark" for FY 1995, to submit to the Office of Management and Budget.

Monday was a thrilling day. We are off to a good start. I thank you for your vote of confidence in electing me Chairman, and look forward to working with you.

D.S.E.

DSE:cw

Encls.

cc:w/encls:

John O'Hara, President

Edouard Quatrevaux, Inspector-General

Patricia Batie, Secretary

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November 11, 1993

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS
INITIAL COMMITTEE ASSIGNMENTS

AUDIT & APPROPRIATIONS

John T. Broderick
Maria Luisa Mercado, Chair
Thomas F. Smegal, Jr.

Oversight responsibilities: Office of the Inspector General;
Office of the Comptroller

Issues/Priorities: FY 1994 budget; FY 1995 budget "mark" and
budget; management response to report of the Inspector General;
corporate audit.

OPERATIONS & REGULATIONS

LaVeeda Morgan Battle, Chair
John G. Brooks
F. Wm. McAlpin
Ernestine Watlington

Oversight responsibilities: Executive Office; Office of the
General Counsel; Office of Administration & Human Resources

Issues/Priorities: personnel/human resources; organization;
reauthorization; regulations; grant conditions & assurances; bylaws

PROVISION FOR THE DELIVERY
OF LEGAL SERVICES

Hulett H. Askew, Chair
Nancy Hardin Rogers
Edna Fairbanks-Williams

Oversight responsibilities: Office of Program Support; Office
of Program Evaluation, Analysis and Review

Issues/Priorities: monitoring and evaluation; technical
assistance; support; competition; research

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THE ROLE AND MISSION OF THE LEGAL SERVICES CORPORATION
[Excerpts from remarks of D. S. Eakeley at NLADA 71st
annual convention, Albuquerque, New Mexico, 11/10/93]

To appreciate the mission of the Legal Services Corporation, it is necessary to start with some hopefully self-obvious reflections about the role of justice in our society. I believe, with Alexander Hamilton, that "the first priority of government is justice." The preamble to our Constitution confirms that the United States of America was formed "in order to establish justice" Democracy depends upon the recognition and preservation of human dignity. There is no more essential ingredient of human dignity than justice.

The motto "equal justice under law," which is inscribed under the portico of the Supreme Court building in Washington, reminds us that justice is both the foundation of our law and its objective, and that central to the concept of justice is equality of treatment, consideration, and opportunity. And as Martin Luther King, Jr. put it thirty years ago in his letter from the Birmingham jail, "injustice anywhere is a threat to justice everywhere."

How do these principles inform the role and mission of the Legal Services Corporation? I don't think you have to go much further than the legislative history and text of the Legal Services Corporation Act of 1974 to find the answer.

LSC is, first and foremost, a funding conduit. Its purpose is to "provid[e] financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." A corporation independent of the federal

government, directed by a bipartisan board of directors appointed by the President and confirmed by the Senate, was chosen as the appropriate vehicle to insulate the legal services program from political pressures and to "make it a permanent part of our system of justice" [in the words of then President Richard Nixon].

The financial support that the Corporation was to distribute was intended not merely as a charity, but rather to serve the ends of justice, as the following statement of findings and declaration of purpose reflect:

Sec. 1001. The Congress finds and declares that --

(1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

(2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

(3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice and assist in improving opportunities for low-income persons consistent with the purposes of this Act.

Note that the Congress spoke of "equal access," rather than "minimum access"; of "high quality" legal assistance and "adequate" legal counsel, rather than "average" assistance and counsel -- all for the goals of serving the "ends of justice" and "improving opportunities for low-income persons."

Secondly, it is the nature of a conduit to take resources and distribute them to others -- in this case, local programs. The

Congress recognized that the delivery system of local programs, charged with identifying and prioritizing the needs of their communities, was the most effective means of securing the "ends of justice." And the LSC is mandated to protect and develop that delivery system.

Thus, under the section dealing with grants and contracts, Congress set the following mandates for the Corporation:

Sec. 1007(a) With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall --

(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

* * * *

(2) (C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance ;

(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas.
[emphasis added]

There are other requirements of local programs, and various restrictions as well, set forth in the remaining subsections. But it is important to remember what the first three Congressional mandates are when reading subsection (d) of section 1007 on "program evaluation":

The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out. [emphasis added]

It is clear that Congress intended the monitoring and evaluation function to address the effective delivery of legal services, and ways to enhance that delivery, rather than merely to secure compliance with the various restrictions imposed. It is also clear that this was not intended to include an "audit" function, since "audits" are separately addressed in section 1009 of the LSC Act.

Thirdly, the Congress did not limit the LSC's role to one of merely accepting for distribution whatever was appropriated. To the contrary, in order to fulfill its mission to secure equal access to justice, the Corporation must regularly assess the degree to which the civil legal needs of the poor are unmet, estimate the resources necessary to address those unmet needs, and seek to secure those resources from the Congress. Indeed, the task of the LSC does not stop there. Rather, it is required to do all it can so that "the Nation [is] encouraged to continue giving the program the support it needs in order to become a permanent and vital part of the American system of Justice." [again in the words of then-President Nixon]

In short, I believe that the appropriate role of the Legal Services Corporation includes the obligation to remind the federal government and the nation of what is required in order to

make "equal justice under law" a reality, and to work diligently to achieve that end.

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PETER F. ELD
PETER L. BERKLEY
BENJAMIN P. MICHEL
GERALD A. LILLO
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ROBERT FISCHER III
JAMES S. ROTHSCHILD, JR.
VINCENT J. SHARKEY, JR.
DOUGLAS S. EAKLEY
DENNIS J. O'GRADY
MICHAEL K. PUREY
MICHAEL R. COLE
GARY E. WALSH
SUSAN SCOTT
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ROBERT J. GILSON
JEFFREY J. MILLER
JANET FALLETTI MOSS
LINDA K. FRENTISS
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JAMES A. RANDON
KENNETH G. BRADLEY
MICHAEL A. FELJINI
CAROL T. WORTHMAN
ANTHONY J. ZARILLO, JR.
VITO A. SAGLIARDI, JR.
MARK W. WILBER
KATHRYN STOPPELLO
WILLIAM C. CAREY
DONALD F. MACHASTER
BRIAN E. O'DONNELL
LOUISE A. JOHNSON
ANTHONY J. TOMARI
SETH D. BELLOCHIELLO
SHELLY A. DEAN

IRVING RIKER (1921-1988)
CHARLES DANZIG (1924-1992)

EVERETT H. SCHERER
NICHOLAS DEB. KATZENBACH
SIDNEY H. SCHREIBER
HOWARD F. CASSELMAN
OF COUNSEL

CRAG L. DONALDSON
CHARLES F. WASKEVICH, JR.
SANDRA BROWN SHERMAN
CHARLES E. REUTHER
OF COUNSEL

LIZA M. KIRSCHENBAUM
J. ALDI KRESS
ROBERTA N. SAMUELS
JOHN Q. VALERI, JR.
KATHLEEN S. WEST
KEVIN G. SMITH
DEBORAH J. FENNELLY
STELLA M. STRELZIK
DEBRA H. AZARIAN
DAVID A. WILDT
ESTHER S. BONDY
NANCY C. EBERHARDT
HAROLD L. KOFMAN
BARBARA LAZYMSKI
HILJANA S. QUAGLIETTA
THOMAS BYRNE
LAURA M. MARSHALL
JEFFREY M. SIMONOFF
CHARLES A. WEISS
NADINE M. SARAJAN
SCOTT A. QINODIAN
GLORIA L. BUZEALIM
JEFFREY A. DURNLEY
GAYLEEN H. SWILLMAN
BRUCE A. HARRIS
HELENE ROBERTSON
MARCI L. SACCO
CRAG L. STEINFELD

November 12, 1993

BY FACSIMILE (FAX) AND REGULAR MAIL

Mr. Jack O'Hara
President
Legal Services Corporation
750 1st Street, NE
11th Floor
Washington, DC 20002-4250

Dear Jack:

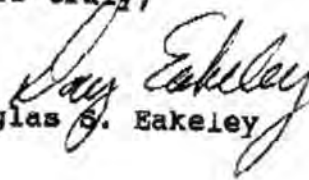
I am troubled by the fact that we are already into the second month of a new fiscal year, and the Corporation is proceeding to expend funds without the benefit (or authority) of a budget approved by the Board of Directors. I am especially concerned about the "Management and Administration" line expenses, which represent explicit policy choices that should be subject to prior Board approval.

The Audit and Appropriations Committee will be asking for a briefing on the "proposed" FY 1994 budget, so that it can report to the Board at our next meeting on December 5-6. In the process, I hope that LSC staff will be prepared to explain and justify each

Mr. Jack O'Hara
November 12, 1993
Page 2

expenditure in terms of the overall mission of the Corporation, as well as the allocation of resources among various functions.

Yours truly,


Douglas S. Eakeley

DSE:cw

cc: Board of Directors
Edouard Quatrevaux
Patricia Batie

file

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

August 6, 1993

PRESIDENT NAMES LEGAL SERVICES CORPORATION MEMBERS

President Clinton nominated nine individuals to be members of the Board of Directors of the Legal Services Corporation today. They are:

Hulett Hall Askew
Laveeda Morgan Battle
John T. Broderick, Jr.
John G. Brooks
Douglas S. Eakely
F. William McCalpin
Maria Luisa Mercado
Nancy Hardin Rogers
Thomas F. Smegal

In addition, the President announced his intention to nominate two additional members:

Edna Fairbanks-Williams
Ernestine P. Watlington

The LSC was established in 1974 is to provide equal access to justice through the provision of "high quality legal assistance to those would be otherwise unable to afford adequate legal counsel". The Board of Directors supervises and directs the activities of the Corporation, which provides support for indigent clients in non-criminal cases.

Hulett Hall Askew is currently the Executive Director of the Georgia Chief Justice's Commission on Professionalism and the Director of the Office of Bar Admissions, positions he has held since 1990. Previously, Askew spent seven years at the National Legal Aid & Defender Association and seven years in various positions at the LSC, where he was Director and Deputy Director of the Office of Field Services. He also served as Regional Director and the Deputy Regional Director in the Atlanta Regional Office both with LSC and its predecessor, the Office of Economic Opportunity.

(more)

Legal Services Corporation
page two

Laveeda Morgan Battle is an attorney in private practice in Alabama, specializing in employment discrimination and public utility regulation law. She previously served in the public sector, including positions as an Administrative Law Judge with the Equal Employment Opportunity Commission and as General Counsel to the Governor of Alabama's Public Staff for Utility Consumer Protection. A leader of the Alabama bar, she is the past President of the Alabama Lawyers Association. Battle's commitment to legal services for the poor dates to the beginning of her legal career, when she worked for two years as the Managing Attorney of the Birmingham Area Legal Services.

John T. Broderick, Jr. is in private practice in a small New Hampshire law firm. Mr. Broderick was the President of the New Hampshire Bar Association and the New Hampshire Trial Lawyers Association. The New Hampshire Bar has been at the forefront of the organized bar effort to preserve legal services.

John G. Brooks has been in private practice in the Boston law firm of Peabody & Arnold since 1937, and has served as President of the Boston Bar Association, Chairman of the Massachusetts Board of Bar Overseers and member of the Board of Delegates of the Massachusetts Bar Association. Since the 1950s, he has been an articulate and committed advocate of expanding legal access for the poor, leading in the fights for the creation and protection of the LSC and serving as President of Greater Boston Legal Services, President of the National Legal Aid and Defender Association and Member of the American Bar Association Special Committee on Access to Justice.

Douglas S. Eakely has spent most of his career in private practice, first in New York and then in New Jersey. He recently served two years as New Jersey's First Assistant Attorney General. Mr. Eakely has long been involved in Legal Service issues, having served both as Counsel and Chairman of the Board of Trustees of Legal Services of New Jersey.

F. William McCalpin was appointed by President Carter to the Board of the Legal Services Corporation and served as its Chair from 1980-81. During his tenure on the Board, he fought attempts to slash LSC's budget and to scale back its mandate. He is also a leader of the national bar, having served as immediate past President of the National Legal Aid and Defender Association, past Secretary of the American Bar Association, past Chairman of the Fellows of the American Bar Foundation, and past President of the St. Louis Bar Association.

(more)

Legal Services Corporation
page three

Maria Louisa Mercado, a partner in a Lubbock, Texas law firm, has devoted her legal career to social justice and equity issues. Born in Mexico, she was brought to Texas by her family as a child. She worked two years at West Texas Legal Services as a staff attorney and six years as an Assistant Texas Attorney General in the Consumer Protection Division before opening a private practice. Long active in Mexican-American causes, she is on the Board of the Mexican American Legal Defense Fund.

Nancy Hardin Rogers is a Professor and Associate Dean at the Ohio State University of Law where she specializes in dispute resolution issues. She has written extensively on mediation and other dispute resolution techniques and is prominent in many national and state organizations addressing these issues, including serving as Chair of the American Bar Association Committee on Dispute Resolution. Rogers began her legal career as a staff attorney with the Legal Aid Society of Cleveland, and continued her commitment to the provision of legal services to the poor after joining the faculty at Ohio State University by teaching a clinical program that served primarily low income clients.

Thomas F. Smegal, Jr. is a private practitioner specializing in intellectual property law. He was appointed by President Reagan to the Board of the Legal Services Corporation in 1984, and led the fight against the Administration's efforts to reduce the budget and scope of the LSC. He has also been a leader of the California Bar, serving as Vice President of the Board of Governors of the State Bar of California, President of the Bar Association of San Francisco, President of the Legal Aid Society of San Francisco and Chair of the ABA Section Officers Conference.

Edna Fairbanks-Williams has been involved in legal services to the poor at the local, state and national levels. She has served on the Board of Director of Vermont Legal Aid, Inc. for over twenty years. She has served as the President of the Board since 1978. Fairbanks-Williams was an original member of the Vermont Low Income Advocacy Council, a client-elected organization of which she still serves as an officer. She has also worked on behalf of low-income persons outside of Vermont. She now serves on the Advisory Committee to the Northeast Regional Training Center, which offers training to legal services programs throughout New England. Fairbanks-Williams has a G.E.D., and currently works as a volunteer in the area of problems affecting low income children.

(more)

Legal Services Corporation
page four

Ernestine P. Watlington has served on the Board of Directors of the legal services program covering Harrisburg and Lancaster, Pennsylvania, and currently serves as President of the Law Coordination Center, which provides support to local legal services programs in Pennsylvania. She also serves on the Board of the National Economic Development and Law Center, a national legal services center supporting economic and community development initiatives across the country. In 1981, after 14 years working in community organizing for a Community Action Agency, Watlington founded Harrisburg Community and Economic Affairs, Inc., which aids low income persons to develop and maintain their own programs in their neighborhoods. Watlington completed the 11th grade in 1930, left school, and then earned a degree in 1970.

#

Melanne,

These are a few last-minute notes I put together about Bill McAlpin and the first of the LSC hearings:

May, 1983

McAlpin: LSC will always be "tinged by political controversy."

He admits faults of the Corporation when asked hypothetical questions re: his opinions about the laws. His role in this hearing seems to most often be that of an advisor.

Chairman Hatch asks about McAlpin's testimony in April '83 before the House Judiciary Committee - that few states used Title 20 to fund legal services. Congressional Research Service found that in '81, LSC received almost \$15 million from Title 20 and (in 1983) was to receive \$12 million. How does he explain this contradiction? Does he feel that certain suits (2 in particular) that attempted to make state governments fund sex changes are justifiable? What kind of real estate records did he have for the time when he was chairman? What kind of monitor did they have for expenditures? "It seems that the Board has very little idea of what is happening in this field, etc..." Reference to no timesheets kept, etc.

There was also questioning of a document put out during McAlpin's tenure called "Getting the Greatest Benefit From your Legislator." Is this not a violation of the LSC Act? (McAlpin admits they should have paid more attention to criticism.) Olson says the degree of supervision of the program by Board and by Congress was not enough. He gives a specific example about McAlpin making a comment re: voting on LSC budget right away, not allowing committee members to look over documents. "To set the record straight," McAlpin says the budget had been discussed on two occasions prior to the vote. Olson states that McAlpin misleads Congress about amount of money spent on administrative costs. There is a reference to "creative budget writing." Reference also to "laundering" of LSC funds. Olson refers to the "philosophy" of McAlpin's Board and will not accept as truth McAlpin's statements about fund balances.

(McAlpin writes a letter May 19 responding to these accusations.)

- States' utilization of funds
- Cases about rights of transsexuals
- Class action suits
- "Gag order" obtained by Camden LS --"no basis in fact."
- Purchase of real estate w/LSC funds (incident cited happened after he left Board)
- Failure of LSC attorneys to key time records

Denton asks McAlpin's comments on the allegations; McAlpin says most reports unfounded, but there may have been "transgressions." Violations of the Act have been "minuscule."

In a letter dated May 11, Denton asks about Nov '81 publication called "Strategic and Tactical Research" and its political nature. McAlpin says the quoted portion is "unnecessarily divisive."

McAlpin vs. Dana, Feb 25, 1982: new Board members' appointments challenged by replaced Board members.

This document is not complete. Information taken from Senate Hearing Book 98-562 Pt. 2 - 98-569.

Eugénie Bisulco
August 20, 1993

LSC ACTIVITIES: ALLEGATIONS VS. FACTS

Introduction

Ten years ago, critics of the federal legal services program lodged accusations, in Congressional hearings and the media, against certain staff and Board members of the Legal Services Corporation (LSC), as well as various local legal services programs, alleging a variety of improper activities.

To fully understand the charges, it is essential to recognize the historical and political context in which these allegations arose. By 1983, the Reagan Administration's attempt to abolish LSC had failed, primarily due to the widespread bipartisan support the legal services program enjoyed in Congress, the ABA, state and local bar associations, and the general public. President Reagan then made controversial recess appointments to the LSC Board of Directors, many of whom came under sharp criticism in Congress and the media for their evident hostility toward the legal services program they had been appointed to direct.

Certain of the Board members, and the staff they hired at the Corporation, joined with LSC opponents in Congress in a calculated campaign to discredit former LSC staff who had worked to defend the legal services program from abolition. In the end, after all of the accusations, the Reagan Justice Department found no "credible evidence that these people acted with a conscious disregard for the law, or that they sought to maliciously impede LSC in the discharge of its statutory mission of rendering legal services to the poor."

Political Activity and Lobbying

Allegation: LSC staff and recipient programs engaged in "illegal lobbying" and "political activity."

Facts: No one has ever denied that staff members of the Legal Services Corporation and recipient programs engaged in an effort to preserve the legal services program in the early 1980's. Nor is there is anything improper or illegal about this. The Legal Services Corporation Act specifically allows legislative representation in certain circumstances, including matters directly affecting the activities of the Corporation. Clearly any lobbying on behalf of the survival of the LSC itself, which was slated for abolition by the Reagan Administration, fit into that category.

The actual dispute concerned how to reconcile an appropriation rider barring the expenditure of funds for "publicity or propaganda" with the express statutory permission to lobby on survival issues. The LSC, applying a well-established principle of statutory construction that the two provisions should be construed so as not to conflict with each other, took the position that grassroots lobbying was allowed in the same circumstances in which direct lobbying was permitted. ✓ The General Accounting Office (GAO) opined that all grassroots lobbying violated the Act.

Thus, the LSC General Counsel and the GAO were at odds over the correct interpretation of the law. Eventually, the Congress passed clarifying legislation that specifically barred all grassroots lobbying.

At the time the events in question took place, they were clearly sanctioned under the Corporation's interpretation of the statute. The question of whether the LSC or the GAO interpreted the statute correctly has never been adjudicated by any court. Therefore, the term "illegal lobbying" is a misnomer.

In response to a request from Senators Hatch and Denton, the Reagan Justice Department conducted a thorough investigation into the charges of "illegal" lobbying. After reviewing "voluminous files," Assistant Attorney General Stephen S. Trott informed the Senators that no violation of federal criminal law had occurred. He concluded that there was "no evidence in the record to indicate that anyone associated with the incidents in question personally profited from whatever they might have done. Nor is there credible evidence that these people acted with a conscious disregard for the law, or that they sought to maliciously impede LSC in the discharge of its statutory mission of rendering legal services to the poor."

Hulett ("Bucky") Askew was the Deputy Director of the Office of Field Services during this period. His responsibilities included supervision of the nine regional offices, as well as the annual refunding process for existing programs. He was not directly involved in any of the legislative activities relating to the survival of LSC, except to be present at meetings where the survival strategy was discussed by members of the staff.

Grant to NLADA

Allegation: There was an improper transfer of funds from the Corporation to the National Legal Aid and Defender Association (NLADA).

Facts: Although critics have thrown around figures ranging from one to three million dollars, the actual amount received by NLADA from LSC during the relevant years is \$2,195,000. This money was used to fund several projects: Management Development and Technical Assistance (\$1,450,000); Leadership Development (\$500,000); Standards Development (\$80,000); Training on Private Bar Delivery (\$140,000); and a Library Manual for Legal Services Programs (\$20,000).

Since it was founded in 1911, NLADA has been the leader in providing management and technical assistance to programs and individuals that deliver civil and criminal legal assistance to the poor. NLADA's role in rendering such services predates the advent of federally funded legal services, and it is the only organization equipped to furnish such assistance on a national scale.

Over the years NLADA received more than \$3 million from the Law Enforcement Assistance Administration and \$1 million from the Office of Economic Opportunity, as well as monies from a variety of public and private sources.

NLADA had formally approached the Corporation about taking on the training project in the 1970's but LSC decided to keep the

project within its Office of Program Support (OPS). In 1981, however, facing a 25% reduction in its overall funding, the Corporation cut nearly half of its operational budget and abolished OPS. In a move consistent with both cost cutting and its ongoing decentralization process, the LSC staff decided to contract the training function previously performed internally by OPS. Since NLADA had already submitted a proposal to LSC for this project, and in light of the Association's unique experience and capability, and its was the logical entity to undertake this function.

✓ Despite some contention over the scope and guideline of a Corporation audit of this grant, an audit was performed by LSC, and no improprieties were found.

Allegation: Bucky Askew was responsible for this grant and the[^] went to work for NLADA, as part of a quid pro quo arrangement.

Fact: The notion that Askew owed his employment with NLADA to the award of the grant has never been supported by a shred of evidence, and is based on nothing more than sheer speculation.

Moreover, it presumes that Askew possesses uncanny powers of precognition. Askew joined NLADA, first as a consultant and later as the Director of the Civil Division in the fall of 1983, two years after the grant was made. This decision was based entirely on his extensive experience with and commitment to legal services for the poor.

LINC's Grant

Allegation: Askew was responsible for the award of controversial grants, including the "Law in Neighborhood Communities" (LINC's) projects, which were used for improper political activity.

Fact: Askew's only involvement in this program came long after the grants were made. After OPS was abolished many of its responsibilities were transferred to the Office of Field Services, where Askew was Deputy Director. Upon completion of these one-time grants, there were certain documents which had to be executed, authorizing final payment for work already completed. Askew's only involvement with these grants was to sign the close-out documents.

U.S. Department of Justice

Criminal Division

Assistant Attorney General

Washington, D.C. 20530

12 APR 1984

Honorable Jeremiah Denton
United States Senate
Washington, D.C. 20510

Dear Senator Denton:

This will refer to your letter of July 19, 1983, requesting the Justice Department to conduct a criminal inquiry into whether personnel and grantees of the Legal Services Corporation (LSC) may have violated federal laws in connection with their alleged use of federally appropriated funds to engage in political and lobbying activities, and to our interim response to this request dated August 25, 1983. A copy of this interim response is attached for your convenience.

During the past seven months we have reviewed voluminous files and raw notes that have been made available to us by LSC's present management, as well as two audit reports which the General Accounting Office has issued concerning lobbying by the Corporation (Nos. B-210338 and B-202116). We have also held extensive discussions with the Corporation's present General Counsel and his staff concerning these matters. The facts we have thus far obtained do not reflect violations of federal criminal laws, and with the exception of two isolated and discrete incidents we are therefore closing this matter in the Criminal Division.

As we informed you in our letter of August 25, the federal misdemeanor law imposing strict liability for using congressionally appropriated funds for lobbying purposes (18 U.S.C. §1913) does not apply to LSC because the Corporation has been statutorily taken outside the sphere of federal "departments" and "agencies." The Legal Services Corporation Act does not otherwise provide for strict criminal liability for those who inadvertently or negligently commit technical infractions of the Corporation's charter. The Corporation's nonfederal status poses substantial obstacles to the prosecution of lobbying incidents

under general felony laws dealing with defrauding the United States (e.g. 18 U.S.C. §371), filing false statements with federal "agencies" (e.g. 18 U.S.C. §1001), or stealing property belonging to the United States (e.g. 18 U.S.C. §641). These problems are compounded by the nebulous standard enunciated in the Corporation's charter concerning the proper use of LSC funds for political and lobbying activities, and the consequent difficulties that such a state of affairs poses to the formulation and proof of specific intent to defraud or steal.

The factual record we have examined reflects that between 1979 and 1981 the Legal Services Corporation engaged in aggressive lobbying activities to resist fiscal retrenchment in its own program, and in federal social service programs generally. These facts support an argument that in many instances the Corporation exceeded the authority entrusted to it by the Congress. However, the fact that ultra vires activity may have occurred here does not necessarily demand the conclusion that those responsible for it acted with felonious intent to defraud the United States, or to steal federal property or funds. In this regard, there is no evidence in the record to indicate that anyone associated with the incidents in question personally profited from whatever they might have done. Nor is there credible evidence that these people acted with a conscious disregard for the law, or that they sought to maliciously impede LSC in the discharge of its statutory mission of rendering legal services to the poor.

We have requested the Federal Bureau of Investigation to conduct limited investigations into the circumstances under which LSC apparently gave away audio visual equipment to an outside organization in New York, and the circumstances under which several files apparently were destroyed at the Chicago Client's Council. We shall advise you when these inquiries have been completed.

I appreciate your bringing these matters to our attention, and I trust that the information provided herein will be responsive to your needs.

Sincerely,

Stephen S. Trott
Assistant Attorney General
Criminal Division

Clinton Nominates Hulett Askew to Legal Services Corp. Board

Hulett H. Askew, director of two statewide bar offices, has been nominated by President Bill Clinton to serve on the board of directors of the Legal Services Corp.

The nomination came late Friday, says Ken Boehm, counsel to the board and assistant to the corporation president. Askew is one of 11 people nominated for the board of directors, and the only person from Georgia expected to serve. The nomination requires Senate confirmation.

The board oversees the operation of the nonprofit corporation, which disburses funds to independent nonprofit groups representing the indigent in civil matters. Board membership is an unpaid position, although Askew will receive a per diem of about \$320 for attending meetings, which are usually held monthly.

Askew serves as director of both the Office of Bar Admissions and the Chief Justice's Commission on Professionalism. He was out of town and could not be

reached for comment Monday.

Before returning to his home state in 1990 to work, Askew lived in Washington, D.C., where he worked for both the Legal Services Corp. and the civil division of the National Legal Aid and Defender Association, which he headed.

Boehm notes board positions often can lead to future federal work.

Former members have gone on to take ambassadorships or head other federal posts. Hillary Rodham Clinton served as chairwoman of the board of directors from the late 1970s to 1981, Boehm says.

—By Charles W. Griffin III



Askew

Hearing Before the Committee
on Labor and Human Resources, U.S. Senate

July 12, 1983

Excerpts Involving Testimony/Documents
Valuable to Hulett H. Askew

Melanne,
here is your
set. The books
are in 102
if there are gaps
you want to
fill. I sent
1 copy to Nestor,
one to Askew.
EB

OVERSIGHT OF THE LEGAL SERVICES CORPORATION, 1983

TUESDAY, JULY 12, 1983

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 9:45 a.m., in room SD-430, Senate Dirksen Office Building, Senator Orrin Hatch (chairman of the committee) presiding.

Present: Senators Hatch, Denton, Grassley, and Eagleton.

OPENING STATEMENT OF SENATOR HATCH

The CHAIRMAN. Today, we are continuing our oversight hearings on the Legal Services Corporation which we began on May 4, 1983. As I stated at the conclusion of that hearing, the testimony that the committee received did little to answer the allegations that have been made against the Corporation. There was a disconcerting absence of hard data as to how much money the grantees actually have, how much money they need, and what they are spending their existing funds on. There also seems to be confusion over whether congressional prohibitions are being followed in both their letter and spirit, or whether Corporation grantees and employees are working together to circumvent the intentions of Congress.

As a result, it seemed prudent to the committee to delay rushing forward and marking up a reauthorization bill until we could first develop an understanding of the problems confronting the Corporation and the best means available for resolving them.

The five key issues which we will be addressing during the hearings this week are: First, whether the Corporation is engaged in lobbying prohibited by statute; second, whether the Corporation employees and grantees have sought to circumvent congressional requests and prohibitions and to cover up involvement in activities prohibited by statute; third, why the Corporation over the last 3 years has failed to spend an average of \$41 million per year, at a time when it is claiming that it has insufficient funds to fulfill its mandate; fourth, whether there should be a limit on the kinds of suits the Federal Government is funding, allegedly in the interest of legal service clients; and fifth, what steps can be taken by Congress to insure that legal services are provided in a manner which is both nonpolitical and client oriented.

On April 26, 1983, I asked Donald Bogard, the current President of the Corporation, to provide the committee with a variety of basic information concerning the Corporation's activities, information

such as a list of all of the Corporation's grantees. Today, some 87 days later, we have yet to receive a complete response to the committee's inquiry.

The information that was supplied, however, did clear up some confusion over funds available to the Corporation. Appendix I of my statement here this morning, which we will put into the record, is a list of fund balances, money which Corporation grantees were not spending in the fiscal year in which it was received. In 1980, fund balances for the more than 300 grantees exceeded \$45.8 million or 15.3 percent of the Corporation's budget. In 1981, they totaled \$59.2 million or 18.4 percent of the budget and in 1982, \$34 million or 14.1 percent of the budget. During this same 3-year period, Corporation grantees received \$9.1 million in legal fee awards. This information will be found in appendix II. Moreover, the grantees earned \$23.8 million in interest on various moneys held in reserve during this period. These data are provided in appendix III.

Consequently, the actual funds available to the Corporation and its grantees in 1983 exceeded the \$241 million contained in the budget. Adding fund balances, interest, and \$35 million in other Federal and State funds available to the program, according to the Corporation, the actual amount of funds available for legal services in 1983 is \$320 million. This figure is some \$29 million greater than the \$291 million my colleagues in the minority are requesting the Corporation's budget be raised to.

It is information such as this that the committee must have before it can pass judgment on the merits of the various proposals we have received concerning the Corporation. I hope that the hearings we will be holding this week will prove as fruitful.

One of the problems we have had in discussing legal services in the past is that the debate is often misframed. Unfortunately, it is assumed that if you have anything less than blind loyalty for the Legal Services Corporation itself, you oppose the very concept of Federal funding of legal assistance for the poor. To me, there is no question that we must provide low-income individuals with access to our judicial system. The issue is better framed if it is posed as whether the Legal Services Corporation, as it has been structured is the best means available for providing legal services in an efficient, equitable, and nonpolitical manner.

I would like at this time to thank my colleagues on the committee who have spent so much time preparing for this hearing. I might add that their cooperation and support, especially that of Senators Denton and Grassley, have been a big help in insuring that these next 2 days of hearings will be as complete as they should be. I look forward to holding these hearings and seeing if we can get to the bottom of some of the difficulties that have arisen and, we are hopeful, to get a consensus on what really should be done to provide adequate, good, and the best legal services that we can for the poor.

Let us turn to you, Senator Eagleton, at this time, and then we will turn to Senator Denton.

Senator EAGLETON. No; I have no opening statement.

The CHAIRMAN. Thank you. Senator Denton?

OPENING STATEMENT OF SENATOR DENTON

Senator DENTON. Thank you, Mr. Chairman. I will keep my remarks brief because I think the questions are going to be much more revealing than any statements.

Like you, Mr. Chairman, I am a supporter of legal services for the poor. I have never been, however, a supporter of the Legal Services Corporation as it currently operates. I have stated often that the corporation has strayed widely from its mandate to provide legal services to the poor and, instead, has become heavily involved in influencing public policy at the expense of serving individual poor clients.

Congress has placed restrictions on corporation activities to try to insure that services to individual clients are the paramount feature of their service. However, I think we will show today that the corporation and its grantees have wilfully flouted these restrictions and even given priority to continuing activities which are expressly prohibited by Federal law.

I resent any implication that equates my opposition to the Legal Services Corporation as it is presently structured with an animus toward providing poor people with legal assistance. I believe that the questions and answers today will indicate proof that it has been at the expense of service to these poor people that a crusade for ideological, political, and other purposes forbidden has been carried out.

I am pleased that you are holding these hearings, Mr. Chairman, and I look forward to asking questions later.

The CHAIRMAN. Thank you, Senator Denton. Senator Grassley?

OPENING STATEMENT OF SENATOR GRASSLEY

Senator GRASSLEY. Mr. Chairman, I want to thank you for holding these hearings as well. I have no opening statement, but I think I can express my views about the importance of this hearing and the direction of the Legal Services Corporation and Congress reenactment of it by an incident that occasionally I run into in my State, but most recently just this past week, in which on a personal problem of an individual he presented the fact that, at least at the time he was requesting help, there were not any new cases being taken by Legal Services—or at least that is what he was told—and consequently was not able to get his particular point of view properly represented.

This leads me to the point that we need to make sure that all the resources of our efforts to supply legal services to the poor go for that purpose, to take care of the individual cases one-on-one, the sort of representation that poor people need. I am not sure that we can look just to Legal Services Corporation as the only way to provide these services, because obviously I think as some legislation proposing tax credits as an enticement for lawyers to help people who have legal problems as another alternative. But at least within the realm of what we have laid out, it seems to me like there is not room for resources to be used for anything other than one-on-one legal representation for the poor of this Nation.

Mr. Chairman, I look forward to having this hearing point out the extent to which that is the case and the extent to which it is

not the case, and to have those resources allocated solely in that direction.

The CHAIRMAN. Thank you, Senator Grassley.

Our first panel, which is already in place, will be discussing corporation administrative policies over the last several years. The panel members are Mr. Dan Bradley, the former president of the Legal Services Corporation; Mr. Clint Lyons, who has been the acting president of the Corporation and the Director of the Office of Field Services; and Mr. Hulett "Buckey" Askew, who was Deputy Director of that office.

Mr. Bradley, I believe you had a short statement to make on behalf of yourself and your panel members before we turn to questions from myself and other members of the committee.

STATEMENT OF DAN BRADLEY, FORMER PRESIDENT, LEGAL SERVICES CORPORATION, ACCOMPANIED BY CLINT LYONS, FORMER ACTING PRESIDENT, LSC, AND DIRECTOR, OFFICE OF FIELD SERVICES; HULETT H. ASKEW, FORMER DEPUTY DIRECTOR, OFFICE OF FIELD SERVICES; AND GARY SINGSEN, FORMER VICE PRESIDENT, LEGAL SERVICES CORPORATION

Mr. BRADLEY. Thank you, Mr. Chairman and members of the committee. We appreciate the opportunity for being here today to respond to some of the concerns and some of the questions that I know you have. If I may, Mr. Chairman, I would like to introduce just briefly the fourth member of our panel, Mr. Gary Singesen. Mr. Singesen was the Vice President of Legal Services Corporation during my tenure as President. He is now in Boston, and he was invited down at the last minute. He will attempt to answer some of the questions also.

The CHAIRMAN. We are happy to have you with us.

Mr. BRADLEY. I have not prepared, as I normally do, Mr. Chairman, a formal opening statement, neither have I prepared a statement for submission to the record. It is fairly short notice, and your staff indicated to me that your primary concern today was to have us respond to your questions. However, if I could just take a few brief moments to give some overview to the chronology and the sequence in the management of the Legal Services Corporation, I think it will be helpful to you and the other panel members.

The CHAIRMAN. If I could, we are happy to welcome you, Mr. Singesen, to the committee and all of you.

Mr. BRADLEY. You know, just by way of understanding, Mr. Chairman, my last day as president of the Legal Services Corporation was March 31, 1982. So I have been gone approximately a year-and-a-half. I really cannot respond too well, I do not believe, to any questions you might have concerning anything that may have happened during the time that I have not been there. Also, most of the members of the panel have been away from the corporation for, I think, over a year. So, by necessity, most of our responses will be directed to those concerns you might have during our stewardship and administration of the program.

Because I have been in Washington a long, long time, I think I was present at the creation of the Legal Services program. As you will recall—and as I know Mr. Eagleton recalls—the Legal Services

program got its birth during the midsixties when the Congress enacted the Economic Opportunity Act and Congress declared a war on poverty. It was during those midsixties that the Legal Services program became an agency within the Office of Economic Opportunity.

In 1966, the Federal Government was not spending any Federal funds for the delivery of civil legal services to the poor. It was during those days that the program actually began. It began simply by an agency within OEO making grant moneys available to local nonprofit corporations to provide civil legal services. Most of these programs had already been in existence. Most of them were legal aid societies, located in major areas, that were receiving most of their Federal funds from nongovernmental sources, primarily United Way, filing fee assessments, charitable contributions, and some revenues primarily local and State revenues.

During the time of 1965—and I joined the Legal Services program in 1966, so I have been present almost my entire professional life in legal services, and most of the members of the panel also joined legal services in the late sixties and early seventies when we were part of OEO. I will not attempt to characterize the growth and development of legal services during that period of time, other than to suffice it to say that from approximately 1965 until 1970, the Federal funding for legal services increased over this period of time from zero dollars to \$71.5 million.

When Mr. Nixon was elected President, he made recommendations to Congress about the reorganization of the executive branch. One of those recommendations was to abolish the Office of Economic Opportunity and to distribute many of those programs to other existing Federal agencies and to return some of those programs to the State governments. His commission, the Ash Commission, recommended to the Congress and to the Nixon administration that Congress enact legislation establishing an independent, private nonprofit corporation. And, in those early seventies, legislation was introduced. And after a long 3-year process, which resulted in legislation being passed by the Congress, vetoed by the President, reenacted by the Congress, and finally approved by the President, President Nixon in his last few months in office did sign legislation that established the Federal Legal Services Corporation.

What happened by operation of law, all of those existing programs that the Congress had funded were simply transferred over to the new Legal Services Corporation. President Ford was then in office. President Ford appointed the first board of directors of the Corporation. The \$71.5 million worth of programs were transferred over to the Corporation. The new Ford board elected Mr. Tom Erlich as the first president of the Corporation, and President Ford's board and the staff of that board came to the Congress and began to make legislative recommendations, budget proposals to you.

I think it is fair to represent to you that there was no growth in Federal legal services procured for about 6 or 7 years. One of the first things that the new Corporation did was come to this Congress and present a plan to you for the expansion of civil legal services to every county in America. That was called the minimum access plan.

The U.S. Congress, through the appropriations process, through the oversight committees, approved that concept and embarked upon a plan to expand legal services to every county in America. That was a multiyear plan. We had budget projections. We had formulas. We had very detailed involvement with the Members of Congress and with the staff of the Congress to explain what we were doing, how we were going to do it, what minimum access would cost, and how the plan would be administered.

I think conceptually it is important for the members of this committee to understand that what the Legal Services Corporation is is primarily a funding or grantmaking authority. During the time we embarked upon the legal services plan, the Congress provided Federal funds that increased over a period of years from \$71.5 million to \$321 million. The \$321 million figure made it possible for us to provide minimum access—and we will get into that later, if you want to, Mr. Chairman—throughout the United States. It took us about 4 or 5 years to achieve that purpose, which basically means of all the moneys that were appropriated by the Congress for civil legal services, we provided in direct grants to local, private non-profit corporations who were organized throughout the United States. And about 95 percent of all of the funds appropriated by Congress during this period of time have gone for the delivery of legal services to low-income persons.

Part of the responsibility of the corporation always has been—and I assume continues today—to make sure that those funds that this Congress appropriates to the Legal Services Corporation are expended in a way that meets the requirements of the Legal Services Corporation Act and the law and the appropriations bills and the appropriations riders that have been attached. One of the major responsibilities and obligations of the corporation is to make sure that those funds are spent in the most cost-effective and the most efficient way to deliver the highest quality legal services possible to the largest number of low-income persons.

In our effort to do that, the Legal Services Corporation, under the Ford board, under the Carter board, and I assume under the current administration's board, is primarily involved in monitoring programs, evaluating programs, auditing programs, providing technical assistance to programs, providing whatever assistance we can to make sure that those programs are doing an effective job in meeting their responsibility.

In all of the time that I was at the corporation, my attitude, my philosophy—because I joined Legal Services back in the midsixties—has always been that our responsibility was to assist local programs in helping them meet their statutory responsibility. Now I viewed my role as not a policeman, but at the same time I viewed my role as I had a responsibility, as the agency head and an agency official, to make sure that the programs were not operating in violation of the law. When we found the programs were operating in violation of the law, we took measures.

What were those measures? We closed programs. Left and right we closed programs. We would evaluate a program. We closed Berkeley, Calif. We closed Merced, Calif. We defunded Birmingham, Ala. We closed San Juan, P.R. We closed Leech Lake, Minn. There were countless programs during our stewardship where w

found that those programs were operating in violation of the law, that were not providing effective economical legal services. We went through the due-process requirements required by law and concluded that those programs needed to be terminated.

However, our primary responsibility was to try to provide services for low-income persons. And I think that on that measure we succeeded. How did we go about assisting local programs? We will be responding to some of the questions that you have, but I think it is fair to represent to you that those of us who worked for the Corporation—and it is a fairly small staff located in Washington and in nine regional offices—we were there to provide assistance, oversight, compliance monitoring, and evaluation of local programs.

I think one of the reasons that the Legal Services program is genuinely successful throughout this country—and I think it is extremely important for the members of this committee to understand that—is that all of the attorneys and all of the staff and paralegals who are involved in this program do not work for the Legal Services Corporation. They work for the Legal Services Corporation of Alabama, or the Legal Services Corporation of Iowa. These programs are governed by local boards of directors. And as you know, under the law, all of them are required to be managed, controlled and directed by a board of directors composed in the majority by lawyers in those respective States. It is to those local boards that we make the grants. It is to those local boards that we look for ultimate accountability on how the programs in those jurisdictions and those States are managed. We look to those boards for making sure that the congressional intent, the congressional restrictions, the congressional priorities are met.

There is no question—and I have been involved in legal services too long, Mr. Chairman. And I have probably visited more congressional districts in my many years in legal services than any other Federal official in Washington, D.C. I am both proud of that and apologizing that I traveled around so much. But there is absolutely no question that most legal services attorneys have never ever violated the Legal Services Corporation Act. It is an absolute fact that most programs, in most instances, totally comply with everything that is required of them.

It is also a fact that over the 15-year history of this program, there have been some violations of the act. There have been some lawsuits that have been filed that should not have been filed. There have been some clients represented that should not have been represented. There have been political mistakes that have been made at the lowest level of the legal services operations and at the highest level of the Legal Services Corporation. I have said repeatedly that we have in some instances made mistakes in judgment. In some instances we have said things that we should not have said. In some instances, I personally have said things that I later regretted saying. But in its entirety, when you understand the Legal Services program, you understand what goes on in a neighborhood office on a day-to-day basis. When you look at the total history of the Legal Services program, I challenge any person in the United States to say that we have failed in our mission and that we have not done what we were charged to do by the Legal Services Corporation Act.

On that basis, what I would like to do—I am not sure that I can personally answer all of your questions, Mr. Chairman. If you will permit me to do so, any question that you direct to the panel, I may refer to one of the other members.

The CHAIRMAN. That will be fine. There is no problem there. We appreciate your comments and your dedication to the Legal Services Corporation. I would like to thank all of you for agreeing to testify before the committee. It is not easy to be an oversight committee, but one of the things we're trying to do is to resolve some of the conflicts that have arisen through the years. It's been a real problem for me, as chairman. I voted for legal services back in 1977. I have had difficulty voting for it since. I want to get this out of the way and resolve it, if we can. Your willingness to work with us, I think, should do much to insure an accurate understanding of several issues confronting Federal delivery of legal services to poor people.

I personally would like to address the issue of lobbying during my time with the panel. This issue of lobbying I think is an important issue. The Legal Services Corporation Act of 1974, as amended, provides the Corporation with broad authority to fund grants for local programs throughout the country that furnish legal assistance to eligible clients. Under title 42, United States Code, section 2996(e)(C), the Corporation is prohibited from attempting to influence the passage of any legislation before Congress, except that corporate personnel may testify or make other appropriate communications when (1) formally requested to do so by a legislative body, a committee, or a member thereof, and (2) in connection with legislation or appropriations directly affecting the activities of the Corporation.

That prohibition covers the Corporation. A slightly different set of rules applies to recipients of Corporation grants. Title 42 United States Code, section 2996(f) states, "The Corporation will ensure that no funds made available to recipients shall be used to influence the passage or defeat of any legislation by Congress or any State or any other legislative body." Three exceptions to this ban were included, however. They seem to permit lobbying: (1) If on behalf of a specific client; (2) in response to a specific request from the legislative body considering a measure, and (3) when a specific measure affects a legal service program or the corporation.

To me, these exceptions are about as broad as one could construe and still be able to pretend that there was a role left to be excepted from. Elsewhere in title 42, United States Code, section 2996, it states that the Corporation will not permit funds to be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, and will not permit funds to be used to initiate the formation of any association, federation, or related entity.

This latter prohibition contains the caveat that it cannot be construed to prohibit the provision of legal services to eligible clients. I think we all understand that. Congress has not been exactly silent on this issue since 1977, beginning for instance with fiscal year 1979. The Moorhead amendment has been attached to each Corporation appropriation, and it reads as follows: "No part of this appropriation shall be used for publicity or propaganda purposes de-

signed to support or defeat legislation pending before Congress or any State legislature. A similar limitation on the use of appropriated funds has been contained in section 607(a) of the Treasury, Postal Service, and General Appropriation Act since 1972." It reads: "No part of any appropriation contained in this or any other act or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress."

While an artful reading of these various statutory commands might be that the Moorhead amendment did little else than reiterate the original language of the Legal Services Corporation Act, it seems to me that Congress was stating that, as of 1979, it believes that the Corporation should no longer be doing any lobbying before Congress or any State legislature. Moreover, it should not be funding grassroots efforts to achieve the same purpose.

Nonetheless, there was much confusion over the proper interpretation of the various statutory commands. The debate came to a head when Congressman Sensenbrenner notified the General Accounting Office of a series of activities he felt violated the law which were committed by Corporation officials—including, he claims, yourself, Mr. Bradley. Now, as I understand, the principal charges were: (1) The Corporation formed a coalition with various groups to direct a lobbying campaign in support of the Legal Services Corporation reauthorization; (2) on April 3, 1980, the Corporation sent out a packet of materials to persons in the field on how to effectively lobby Members of Congress; and (3) similar packets were subsequently sent out about once a month from the Corporation's office of government regulation.

These activities, in my opinion, clearly violated the spirit and the letter of the law, and that is not simply my opinion. Today, I might add, Toby Sherwood, the assistant general counsel to the Corporation, issued a memorandum in 1979 which stated that, among other things, it would be unlawful if the Corporation provided funds for others to engage in activities the Corporation was barred from performing. It would be unlawful for the Corporation to provide funds for the printing and mailing of fliers designed to influence legislation. It would be unlawful for the Corporation to establish an organization whose purpose generally is "to take positions" before legislative and administrative agencies.

At this point, I would like to submit for the record the Sherwood memorandum as Bradley Document No. 1. We will identify it as that because this is our first panel, the Bradley panel.

[The document referred to follows:]

MEMORANDUM

TO: Sen Simon and Will Collette

FROM: Toby Sherwood, Assistant General Counsel

RE: Training Grants for Legislative and Administrative Advocacy

DATE: May 8, 1979

BRAD
Doc

A number of proposals for training grants to do legislative and administrative advocacy have been brought to our attention. Although the solicitation for those proposals stated that they must conform to the requirements of the Legal Services Corporation Act, many contemplate activity that is actually or potentially in conflict with the Act. In particular, the proposals are inconsistent with the statutory restrictions on lobbying, certain types of politically-motivated training, and organizing. This memorandum is an attempt to clarify those provisions, and to provide guidelines for the development of new training proposals.

A. Lobbying.

Section 1007(a) (5) of the Act, 42 U.S.C. Section 2996f

(a) (5) states:

[The Corporation shall] insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where --

(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

(B) a governmental agency, legislative body, a committee, or a member thereof--

(i) requests personnel of the recipient to testify, draft, or review measures or review measures or to make representations to such agency, body, committee, or member, or

(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.

Two general principles flow from this language: First, lobbying can only be done by persons representing specific eligible clients, in response to a specific request from the body considering a measure, or when a specific measure affects a legal services program or the Corporation. Second, if particular lobbying activity would be prohibited if done by legal services program employees, funds provided by the Corporation may not be used to permit others to engage in that activity.

These principles dictate a number of guidelines relevant to the proposals we reviewed:

1. In general, no funds may be used for transportation to take other than program employees to lobby, either at a hearing or an informal meeting. In circumstances when

attendance of an expert, a client, or other person who can make a unique contribution to the proceedings is a necessary incident of permissible lobbying by a legal services program, transportation expenses may be paid. Expert witness fees may also be paid if expert testimony is essential to the program's representation.

2. No Corporation funds may be used for printing or mailing fliers designed to influence generally the legislative or administrative process. A legal services program may mail or pass out documents necessary to its representation.

3. No Corporation funds may be used to establish an organization whose purpose is generally to "take positions" before legislative and administrative agencies. Only legal assistance activities of the type described above may be supported by Corporation funds.

B. Politically-motivated Training.

Section 1007(b) (6) of the Act, 42 U.S.C. Section 2996f

(b) (6), states:

[No Corporation funds may be used] to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients.

This provision does not restrict legitimate community education activities carried out by legal services programs. It does, however, prohibit substantive or skills training for persons who are not employed by a legal services program as part of a strategy to influence a legislative or administrative measure. As with the restrictions on lobbying, Corporation funds may not be used to support such training even if it is performed by persons who are not program employees.

The following guidelines are appropriate for the training proposals we reviewed:

1. There can be no Corporation-funded general meetings which do more than provide information about public policies or political activities. For example, a program about how a bill becomes a law is fine. A meeting dedicated to strategies to influence a particular bill is not. A program about public utilities explaining procedural rights (e.g., you are entitled to notice before termination) is fine. A program to train advocates for increased procedural rights (e.g., a longer notice period) is not.

2. A legal services program employee may meet with a program client, including a group, to discuss strategies for influencing the legislature and/or administrative agencies and steps the client can take to supplement the work of the lawyer.

Such a meeting may be held with members of the client group, even though it's a very large group. And the legal services staff may meet with more than one client group at a time--if that is sensible in terms of strategies.

3. Corporation funds cannot be used, however, to enable a program client to train its members to participate in legislative or administrative advocacy on a particular issue or issues. Thus, a proposal to pay for a meeting of a client group at which the group's own staff and/or members will do most of the talking (or leading of groups) cannot be funded. Legal services employees can come to such a meeting and make a presentation, but the program cannot use Corporation funds to pay for the entire meeting (rental of space, food, etc.).

C. Organizing.

Section 1007(b)(7) of the Act, 42 U.S.C. Section 2996f (b)(7), states:

[No Corporation funds may be used] to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients.

This provision does not prohibit community education regarding lawful alternatives to litigation, discussing strategies with clients of a program, or providing legal advice with respect to the formation of an organization. It does prohibit the use of Corporation funds generally to

solicit members for or finance the activities of particular organizations. Again, the restriction applies equally to employees of legal services programs and others who wish to use Corporation funds.

The following guidelines are relevant to the proposals reviewed.

1. A legal services program cannot use its funds to establish a center whose purpose is generally to provide organizing information. Corporation funds can be used to counsel program clients regarding incorporation, the rights of organizations, and similar legal issues.
2. No Corporation funds may be used to support a public meeting, one of the purposes of which is to encourage membership in any particular organization or organizations.
3. As noted above, Corporation funds may be used to pay for a meeting of more than one client group; they may not be spent to promote the formation of a coalition or advocate membership in any particular group.

D. Other Issues.

There are several additional questions presented by the proposals as to which some guidance may be helpful:

1. Is consultation with clients required before a request is made for a training grant?

If a request is for a meeting (or series of meetings) with a client group or client groups, the request should reflect that the legal services staff and client group leadership have met and determined that such a meeting (or meetings) would be useful. The proper provision of legal assistance does not include a decision by a legal services program sua sponte to hold a large meeting of its clients, paid for by a substantial sum of Corporation money.

2. Who are clients?

The regulation defines the term "eligible client" as anyone financially eligible for legal assistance, whether or not he or she has a legal problem for which service is being provided, and whether or not he or she is a member of a group which is represented by the legal services program. Thus, the phrase "eligible client" means "eligible to be a client."

In the context of the restrictions discussed above, the operative phrase is not "eligible client," but "client," and this must be read to mean a person for whom service is being provided or a person who is a member of a group that is a client of the legal services program. The circumstances in which a group is eligible for representation are set out in Section 1611.5(c) of the regulations.

3. Can a registration fee be charged at a meeting paid for by Corporation funds?

No. The answer is the same whether clients or the public attend the meeting. See Part 1609.5 of the regulations for the only circumstances in which fees can be sought.

4. Can Corporation funds be used to hire someone not on the legal services program's staff to plan, conduct or participate in a public meeting or a meeting with clients?

Only in certain circumstances: (a) The job to be done must be one which legal services staff are permitted by the Act and regulations to do; (b) There must be no one on the staff who can do the job--because of the press of other business or the lack of skill; (c) If the person to be hired is an employee of the client, the amount of money to be paid to him or her must be relatively small. There should be no suggestion that Corporation funds are simply being used to sustain the activities of the group.

by your interpretation. But the only way this question will ever really be resolved is when the U.S. Congress makes it explicitly and implicitly clear as to what we can and cannot do."

The CHAIRMAN. This is what the language actually says. I do not know whether I want to read it all, but it says, "That none of the funds appropriated in this act shall be available to any recipient to be used——"

Let us go to (b).

To influence any Member of Congress or any other Federal, State or local elected official to favor or oppose any acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body except that this subsection shall not preclude such funds from being used in connection with communications made in response to any Federal, State or local official upon the formal request of such official, provided further that none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit unless the Federal Government or any State or local government, unless: 1)——

And it goes on from there.

Mr. BRADLEY. It seems pretty clear to me. I would interpret that, after hearing it for the first time, Mr. Chairman; I think the Congress has made it crystal clear that neither the Corporation nor their grantees can engage in "legislative"—if I can use that word, rather than "lobbying"—activities unless there is a specific request from a member of those bodies.

The CHAIRMAN. And then that is only to talk to him. If some member came to you and said, "I want you to go and lobby on this particular issue," that is not what is meant by that.

Mr. BRADLEY. I do not think so.

The CHAIRMAN. Would you please state for the record, Mr. Bradley, Alan Houseman's position with the Corporation during the time you were there?

Mr. BRADLEY. Alan was at the time Director of what was called the Research Institute of the Corporation.

The CHAIRMAN. That was from 1976, I believe, to 1981; is that correct?

Mr. BRADLEY. I am not exactly sure when he started, but I know that he was there in that position during the entire time that I served as President.

The CHAIRMAN. On December 1, 1980, Alan Houseman wrote a memorandum to Mr. Askew, entitled, "Coalition Building and Strengthening Presence in Community." In it, Mr. Houseman states:

It is essential to broaden the political base of local programs for short-term and long-term survival. A critical means of strengthening the local political base is to develop coalitions and working relationships with local organizations and individuals who would see it in their interest to assure the continuation of an aggressive legal services program.

That letter, as I stated, was written on December 1, 1980. Do you feel, Mr. Bradley, that it was legal, under the law that we just read, in 1980 for Mr. Houseman to be issuing memorandums of this particular kind?

Mr. BRADLEY. If I recall my testimony before the Senate Appropriations Committee and also my testimony before the House——

The CHAIRMAN. Could I interrupt you one more time, just so I could give you some additional information? I think you should note that 42 U.S.C. 2966 (f), as I have already stated, prohibits the Corporation from initiating the organization of any associations, federations, or similar entity. Go ahead. I just want you to be aware of that.

Mr. BRADLEY. If I can recall my previous testimony—and if I can't recall it to you exactly, then I will state it as I feel and believe—it was absolutely no question that some of the memos that were written during this period—I do not have to remind you, Mr. Chairman, what happened in November 1980. I need not have to remind you that in 1981 the new administration took over, and as you know better than I do, OMB made specific recommendations to this Congress to totally abolish the Legal Services Corporation and to turn those functions back to the States.

The CHAIRMAN. What I am interested in, Mr. Bradley, is not so much finding fault as establishing whether you believe this statute that I just read to you would prohibit that type of a letter in the future; or, if it does not, do we need to be more specific?

Mr. BRADLEY. I do think that your statute does—

The CHAIRMAN. It would prohibit this type of letter that Mr. Houseman sent?

Mr. BRADLEY. The Alan Houseman memo, in my judgment—while at the time that it was written probably arguably, by a good lawyer, could find that it was not in violation of the Legal Services Corporation Act. What I said to Alan Houseman when I saw the memo, what I have said privately, what I have said publicly to anyone and everyone that will listen, it was a stupid document. It never should have been written. I was sorry that it was written. I apologized to the U.S. Congress that it was written.

The CHAIRMAN. This was one of the documents you were referring to in your opening statement that you wish had not been done, that you would not do today or allow anyone in the Legal Services Corporation to do?

Mr. BRADLEY. And I regret, in retrospect, that it was done at the time. I severely criticized and chastized the authors of some of these memorandums.

The CHAIRMAN. We will insert this as Bradley Document No. 6; Again, I am calling it a "Bradley Document" because it is your panel; I am not trying to pick on you.

Mr. BRADLEY. I understand.

[The document referred to follows:]

MEMORANDUM

BRADLEY
Dec #6

DATE: December 1, 1920

TO: Bucky

FROM: Alan

SUBJECT: Coalition Building and Strengthening Presence in Community

In my view the workshop on coalition building should give specific messages about strengthening a program's presence in their local community and should suggest practical means of developing closer relationships to a variety of potential allies.

Messages

1. General Message - It is essential to broaden the political base of local programs for short term and long term survival. In the short term, a strong local political base will be critical if we are to successfully obtain support from Congress for the continuation of an aggressive legal services program. Lobbying in Washington will only be successful if local programs have established credibility and a base in their communities and developed allies who can and will assist them in persuading their Congressman and Senators to support legal services.
2. A critical means of strengthening the local political base is to develop coalitions and working relationships with local organizations and individuals who would see it in their interest to assure the continuation of an aggressive legal services program.
3. Effective coalitions and working relationships will involve programs assisting these groups and organizations in concrete ways. Merely acting in concrete or seeking assistance will not be sufficient. The local program must actually assist groups, individuals and coalition members so that they have a real stake in the survival of the legal services program. The legal services program must become an integral part of their activities.
4. Usually coalitions and working relationships will evolve out of common work on substantive issues. Legal services should seek out others in the community who may be involved on similar issues of concern to the program and client community. They should also seek to participate in activities by others that affect issues and problems of the client community. It is a two-way street.

The CHAIRMAN. On December 8, 1980, Mr. Houseman issued another memorandum entitled, "Tasks for Survival." In it, he stated that the first long-term task is to "develop a long-term outside organization to represent legal services in the long-term struggle." Let me just ask you this. In your estimation, was this permissible in December 1980, for the Corporation to be advocating establishment of an outside organization to lobby or represent it in the struggle that it was having at that time or even in the future?

Mr. BRADLEY. I think that it was permissible under the act these issues to be raised by Mr. Houseman or anyone else. What was not permitted and what was not done is the Corporation being the instrument and the facilitator for doing some of the issues that were raised.

The CHAIRMAN. You made a distinction there. You are saying it was permissible for him to make a suggestion to you as administrator, or to anybody else within the Corporation, but not to actually implement that suggestion?

Mr. BRADLEY. Yes, sir.

The CHAIRMAN. We will introduce this memorandum as Bradley Document No. 7.

[The document referred to follows:]

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE: December 8, 1980
 TO: Coalition
 FROM: Alan *Alan*
 SUBJECT: Tasks for Survival - An Update

BRADLEY
 Dec #7

Below I have outlined what I understand to be the tasks assignments for survival. I have included both coalition and LSC staff. Also, I have set out future tasks and who I believe should be involved. We should discuss the latter to be sure there is agreement and make appropriate changes.

Immediate Tasks - To Be Done During Next Several Weeks

1. Transition Team and White House Contacts - Dan, Mary, Mario, Judy, Bill McAlpin and Howard.
2. Board Nominees - Howard Eisenberg, Bob Evans, Dan, Judy and Bernie.
3. Solidification and Strengthening of Local Political Base - Regional Meetings - Bucky, Bea, Alan, John McDonald, Mary, Denny Ray, Salvadore Tio, Martie Thompson, Theron O'Connor and Steve Kostka. Joan Lieberman and John Arango are assisting as staff.
4. Dealing with Money Issues - Bruce, Bernie and:
 One-time Money - Gerry and ABC Committee.
 Drawdown Issues - Mario, Dan and Mary.
 Additional Resources for Emergencies - Alan and Gerry.
5. Private Bar Approach - ABC, Judy, Steve, Mario, Dan, Bruce, Bernie, De (John Dooley has assisted as staff).
6. LSC Board Position on Reauthorizing Legislation - Dan and Mary.
7. Support Center Grants - Andy and Mario.

Short-Term Activities - Started now but completed in January

1. Establishment of effective communications network.
State Coordinators - Mary, De
Other Communications - Tim, Andy
2. Analysis of New Congress - Office Government Relations (OGR);
De, Dick
3. Committee Composition of New Congress - OGR; Dick
4. Blue Ribbon Panel - McAlpin, Dan, Core Group
5. Development of Affirmative Strategy on Legislation, White House
and Congress - Mary, Judy, De, Bruce, Jim, Dick and Core Group.
6. Protective Actions re: Support and Policy Issues - Alan, Judy,
Dave Madway, De, and Core Group.
7. Legal Support and Analyses including outside council - Mario, Denny,
and Howard.
8. Basic Bureaucratic Vulnerabilities (Such as GAO, CBO, Fund Balances,
Monitoring, Complaint Procedure, Weak Programs, Information Collection
and Information on Puerto Rico Expenses) - Clint, Mario, Gerry and De.
9. Publications and Media - Public Affairs, NLADA.
10. Support for Supporters on National Level (Including Unions, Civil
Rights Organizations, Bar Associations, etc.) - Judy, Jim Braude,
and Bernie Veney.
11. Supporting Client Community - Bernie, Clint, and Bea.
12. Law Schools - Bea
13. LSC Staff Morale and Staying Power - Gerry, Clint, and Mario.
14. Information System - Andy, Dick

Long-Term Tasks - Begin now but take several months

1. Develop long-term outside organization to represent legal services
in the long-term struggle - Howard, De, Bernie and Core Group.
2. Securing resources for long-term effort - Howard, Bruce, De,
Gerry, Alan and Core Group.

3. Press Relations and Publications - Tim, Howard and Press Committee.
4. Relationships to local, state and national bar associations - Steve, Tim, Dan, Howard, Bill McAlpin, Bob Evans and Core Group.
5. Identifying staff and "getting on board" staff to work in long-term effort - Alan, Howard, De and Core Group.
6. Develop long-term strategies for national support - Dave Madway and Alan.
7. Develop long-term strategies for Clearinghouse - Andy, Alan.
8. Develop long-term strategies for training - Bea, De and Alan.
9. Develop long-term strategies for research - Alan.
10. Develop long-term strategies for regional offices - Clint, Bucky.
11. Develop long-term strategies for Reggie program - Willy, Clint.
12. Develop long-term strategies for state support - Alan, De, Clint.
13. Long-term funding theories - Gerry, Bruce, Alan and Core Group.
14. Long-term legislative advocacy strategies - Alan, De, Dick Skutt, Mary, Judy.
15. ABA Mid-Winter Meeting - Dan, Judy, Steve, Bernie, Bob and De.

The CHAIRMAN. I think you would agree with me that such activity, if the Corporation engaged in it, would not be permissible under current law?

Mr. BRADLEY. That is exactly correct.

The CHAIRMAN. On December 8, 1980, Alan Houseman issued another memorandum entitled, "Informing People of Our Activities, Developing Effective Communications Network, and Beginning Efforts on Local and State Efforts to Survive." This memorandum was addressed to "Coalition and LSC Staff." Could you explain for the record who would have received that kind of a memorandum when it was sent to "Coalition and LSC Staff"?

Mr. BRADLEY. It may be important to point out what the coalition was, as best I recall. Two things, if you will permit me 30 seconds, Mr. Hatch.

The CHAIRMAN. Surely.

Mr. BRADLEY. One is that Alan Houseman, probably more than any other human being on the face of this Earth, knows more about legal services and the legislative development of legal services. He and two or three other persons on the Senate committee staff wrote the Legal Services Corporation Act.

The CHAIRMAN. But if he knew more about it, then he should not have been sending these kinds of memorandums.

Mr. BRADLEY. I know it. And I am pointing that out where you will understand who Alan Houseman was. He was, in fact, familiar with the Legal Services Corporation Act. Now, the coalition represents, to my understanding, a broad group of individuals and organizations, all of whom were involved in the delivery of legal services to the poor.

The CHAIRMAN. But you are not saying that the coalition is just those who were members of the Corporation?

Mr. BRADLEY. Oh, no, sir.

The CHAIRMAN. You are saying it went out to outside lobbyist and outside people to try and lobby?

Mr. BRADLEY. It was a coalition of legal services organization and individuals—

The CHAIRMAN. Who were outside the Corporation itself?

Mr. BRADLEY. They were outside. They were not Corporation employees.

The CHAIRMAN. In essence, what you are saying then, if you look at this statute, this was an impropriety that should not have occurred? Acknowledging that Mr. Houseman was dedicated to legal services, acknowledging that he understands legal services, and he should have understood this statute, this memorandum should not have gone out; is that not correct?

Mr. BRADLEY. I clearly think that the memo should not have gone out, but I do believe that it is important for the record to reflect that in the broadest definition and interpretation of the 1974 act as amended—not the amendment that you just read but the previous act—that in a matter that directly affects the Corporation, in a matter that directly affects the local recipient—that is, whether or not they will ever get another dollar from Congress; that is, whether or not Congress will impose restrictions on the type of work that a local program can do—I submit, and I submitted that to GAO and the oversight committees, that there is a possibility that a local program and the Corporation could involve itself in that activity.

The CHAIRMAN. That is not the point. My point is, even under the prior law, he was sending this to a coalition of people who were outside of the Legal Services Corporation.

Mr. BRADLEY. No, no, no, sir. That coalition represented the legal services providers.

The CHAIRMAN. Nobody outside of the legal services providers or the Legal Services Corporation?

Mr. BRADLEY. No; the coalition was an ad hoc group of representatives of local legal services programs that represented the migrant farmworkers interests, the Indian interest, the rural interest, the women's interest, the minority caucus. These were organizations that represented those individuals who were working in local programs. We are not talking about the AFL-CIO.

The CHAIRMAN. But all of those people received money from the Legal Services Corporation, taxpayers' money, to be able to advocate for all of these special interest concerns? Farmworkers—and you went through a whole list of them.

Mr. BRADLEY. Yes, but all of those were legal services providers.

The CHAIRMAN. Or grantees.

Mr. BRADLEY. Those were all grantees of legal services.

The CHAIRMAN. The memorandum directs: "Each program should designate a coordinator for and set aside specific resources for survival activities." What do you think of that commandment?

Mr. BRADLEY. Here again, it just gets back to the point I was just trying to make. If you broadly interpret the fact that a local program can spend its resources in protecting the program in its continued viability and operation, then there is some legislative and legal authority that that would permit it. But Mr. Hatch, I want to

make it perfectly clear—because I have tried to make it as succinct and as clear as I possibly can—and we can talk about all of the Houseman memos—the Alan Houseman memos, in my opinion, never should have been written. They never should have been circulated. They never should have, but they did raise questions that I think, in retrospect, are legitimate questions of concern for the corporation.

The CHAIRMAN. But you see, Dan, one of the problems I am having is that a lot of the critics of the National Legal Services Corporation would appear to have been correct in saying that there were a lot of political activities going on here. We are using taxpayer funds to sue taxpayers themselves, taxpayer funds to sue governments themselves, taxpayer funds to have class actions against governments, people, corporations, individuals, and so on, on behalf of special-interest concerns that may or may not have been representative of the poor. And this is one of my gripes about the Corporation, and I think it is a very legitimate, serious gripe.

Now let me ask you this. What you seem to be saying is that this Houseman memo was a bad thing. It should not have gone out. But although before the Moorhead language was enacted, there may be some way of stretching the law to cover it. Am I correct in saying that since that law has been drafted, there is no way of stretching the law to allow this type of activity to occur?

Mr. BRADLEY. That is basically how it interprets the legislation—

The CHAIRMAN. Is that not basically putting it the way you would put it?

Mr. BRADLEY. Yes.

The CHAIRMAN. So I have been fair in stating it that way?

Mr. BRADLEY. That's correct.

The CHAIRMAN. We will put that in the record as Bradley Document No. 8.

[The document referred to follows:]

LEGAL SERVICES CORPORATION

MEMORANDUMBRADLEY
Dec. #8

DATE: December 8, 1980

TO: Coalition and LSC Staff

FROM: Alan *also*

SUBJECT: Informing people of our activities, developing effective communications network, and beginning efforts on local and state levels to survive.

The following activities, in addition to regional meetings, should occur immediately:

1. We will establish an effective state coordination network. There are weaknesses in the current coordinators. We will strengthen that network, add additional people, replace those who are not functioning, etc. Within two weeks, there should be within each state an effective state coordinator. State coordinators will attend the regional meetings.
2. Each program should designate a coordinator for and set aside specific resources for survival activities. In some cases this will be the Project Director. In other cases it will be other staff. The Program Coordinator will have overall responsibility for communicating with State Coordinators, coordinating coalition building activities, coordinating survival activities including state and local private bar efforts, and insuring effective communication within the local program. Both LSC (through regional offices) and members of the Coalition will request programs to appoint coordinators.
3. We will consider the development of a regional coordination network. This network of regional coordinators could, if established, be capable of functioning effectively as a decentralized communication network.
4. NLC will develop an effective network of clients from each state and region. This network will be hooked into the state coordinator network.
5. Each state will be encouraged to hold state meetings of all Project Directors, Program Coordinators and others. These meetings may be a part of the regional meetings. In some states, they need not wait for the regional meetings to occur.

U.S.

5. Communications will be made to each program through the state coordinator network and in other ways. Program coordinators will be asked to undertake the following activities:

- a. Identify people from local boards and within local communities that may have contacts with high officials in the transition team, the Reagan Administration, and/or who could help in our fight.
- b. Identify people who could serve as members of the LSC Board who would be supportive and who would have sufficient political influence to become members.
- c. Analyze the new members of Congress elected from the district or state. This would involve an investigation in the past activities of the new Congressperson, contacts of local board members and other members of the bar with the Congressperson, etc. In addition, we should also reexamine incumbent Representatives and Senators.
- d. We will inform and update programs and program coordinators on all current legislative activities, appropriations, the coalition, transition team, private bar, regional meetings, etc.

The CHAIRMAN. This bothers me a lot. These show clear intent to lobby and to politically lobby. Now, whether it was for or on behalf of the Legal Services Corporation or not is still a question. But on December 9, 1980, Mr. Houseman directed a memorandum to the coalition, which stated, "LSC and the coalition are developing affirmative political strategy in an effort to successfully resist all possible actions and scenarios which may be utilized by opponents of our movement." I think you would have to say, at the very least, that is pretty injudicious language.

Mr. BRADLEY. You are being charitable and kind when you characterize it as that, Mr. Chairman.

The CHAIRMAN. Well, it is doggone offensive language to anybody in the Congress, would it not be?

Mr. BRADLEY. Right.

The CHAIRMAN. Would you not think it would be offensive to taxpayers out there in the boondocks paying their taxes to have some of these lawsuits and other things going on, on behalf of any movement in this country?

Mr. BRADLEY. I could not agree with you more. It was offensive to me, and I said so at the time.

The CHAIRMAN. Do you think this kind of activity was permissible before 1980? Do you think that under a stretching of the law it might be? You would have to stretch it pretty broadly, would you not?

Mr. BRADLEY. In raising the issues, yes, whether or not we should be involved. There was a suggestion, for instance, in the Houseman memo to staff, as I recall it, Mr. Chairman, that suggested that the Corporation should obtain political information or background information on the new Members of Congress. We never did that. Granted, it could be raised, but I am not politically stupid. The Corporation that exists because of the Congress is not about to compile political information on Members of Congress.



LEGAL SERVICES CORPORATION

733 Fifteenth Street, N.W., Washington, D.C. 20005

Writer's Direct Telephone
(202) 272-4210

BRADLEY
Dec. #15

Don J. Brad
President

December 4, 1981

Mr. B. A. Johnson
P.O. Box 572
Wadley, GA 30477

RE: Community Congressional Education Project
Wadley - Bartow Citizens League, Inc.

Dear Mr. Johnson:

We have reviewed the Phase II documentation you provided us on your LINC/CAP grant. It would be extremely helpful to us if you would rework your grantee reporting form and delete the references to voter-education, legislative and political process. Perhaps you could rephrase the language to say something to the effect that the project focused on citizenship and advocacy.

I have enclosed the original form that you completed, along with a new form. If you have any questions or need any additional information, please contact Floyd Price or me.

Thank you in advance for your cooperation in this matter. I wish you continued success on your project.

Sincerely,

Kenneth Smith
Kenneth Smith
Director
Regional Operations and
Support Services
Office of Program Support

JKS:lbm

Enclosures

BOARD OF DIRECTORS - Milton Rodman, Chairman, Little Rock, Arkansas

Steven L. Engstrom
Washington, D.C.

Carlton D. Baker
Phoenix, Arizona

Harold B. Searles
San Francisco, California

Alfred J. Kohn
San Diego, California

Richard A. Smith
Tucson, Arizona

Robert J. Kohn
Orlando, Florida

Richard A. Smith
San Diego, California

F. William
St. Louis
Joseph
Miami

NOV 18 1981

LINGS/CAP
PHASE 11
FORM 2-BBRADLEY
Dec. #16

NOV 24 1981

Evaluation Requirements
Grantee Reporting Form

LINGS/CAP Project Title: Community Congressional Education Project
 Organization: Wadley-Barlow Citizens League Inc.
 Address: Mr. B.A. Johnson
Post Office Box 572
Wadley, GA 30477
 Telephone: (912) 252-5877 or (912) 252-1116

2. Give a brief overview of program to date. We have conducted bi-weekly seminars/workshops, and disseminated information on voter education, citizenship, and the legislative process. Films have also been shown and posters/leaflets distributed throughout the community.
2. Describe any alternative measures which you have found necessary relating to original goals. Door to door canvassing in order to stimulate interest and participation. This was done in addition to newspaper articles, leaflets & radio announcements. Plus free transportation why were these alternative measures necessary? To arouse interest and necessary community participation.

3. Actual dates of activity: beginning and ending: Oct. 26, 1981
Thru Nov. 16, 1981

4. Has technical assistance been implemented? Yes ☒ No ☐

5. If yes, by whom:

Name	Title	Address
<u>Terese Blount</u>	<u>E. Librarian Asst.</u>	<u>1130 Strickland St</u>
<u>Barth Thomas</u>	<u>Community Development Coordinator</u>	<u>Wadley, GA 30477</u>

6. How are objectives being measured? By response and participation in seminars/workshops, increased voter interest in the community, increased voter registration according to city records.

7. Demonstrate achievement of short-range objectives. Increased awareness of the necessity of good citizenship, voter responsibilities, and community involvement in the political process.

8. What materials are being used or produced? Leaflets handed out in seminars/workshops, films on voter education and the political process, posters throughout the community on voter education and citizenship.

9. List any problems encountered in Phase I of the program. About 60% of the number reached is participating.

10. Briefly describe how the problem was solved, or planned activities. Through the involvement of ministers and their supportive reach to their congregation on the importance and necessity of involvement and participation in the political process.

11. Who is the person primarily responsible for this project?

Name Mrs. B. A. Johnson

Address Post Office Box 572

City/State/Zip code Wadley, GA 30477

Telephone number (912) 252-5877 or (912) 252-1116

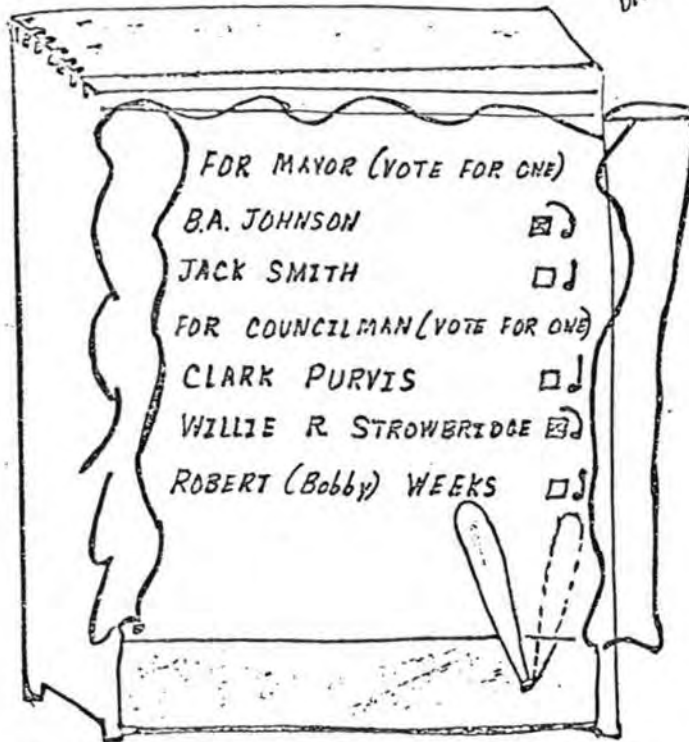
Name of person completing this form: William B. Blast

Note: Upon successful completion and return of this form, the remaining fifteen percent of the grant will be awarded.

William B. Blast
Signature of person completing this form

11/16/81
Date

VOTING MACHINE

BRADLEY
Dec #17

Push Lever 1 (TOP LEVER) FOR MAYOR
 Push Lever 4 (FOURTH LEVER) FOR COUNCILMAN
 VOTE yourself a Xmas present in
B.A. JOHNSON and WILLIE R. STROWBRIDGE

BRADLEY
Dec. #18

Payment mailed to:
 Madley-Bartow Citizens League, Inc.
 P.O. Box 272
 Madley, Georgia 30477
 ATTENTION: Mr. R. A. Johnson



LEGAL SERVICES CORPORATION
 733 Fifteenth Street, N.W., Washington, D.C. 20005 (202) 271-1111

PAYMENT APPROVAL FORM

Liability Account No: 14-1160-000004

Account Number	Description	Expense
32-53-000560	Initial Payment of 85% per attached Grant Award Conditions.	\$2,125.00
TOTAL:		\$2,125.00

Signature of Originator _____ Date 5/22/81
 Approved by _____ Date 5/22/81

U.S. DEPT. OF JUSTICE

Payment mailed to:
Wiley-Darrow Citizens League, Inc.

P.O. Box 572

Wiley, Georgia 30497

Attn: Mr. B.A. Johnson



LEGAL SERVICES CORPORATION
 733 Fifteenth Street, N.W., Washington, D.C. 20005 (202) 272-4200

PAYMENT APPROVAL FORM

Account Number	Description	Expense
52-53-000540	Full and final payment per Grant Award Document	5375.00
	Liability Account 514-144-20000	
	TOTAL	5375.00

Signature of Originator

Date

Approved by

Date

The CHAIRMAN. On June 8, 1981, Bea Moulton, director of the Office of Program Services, wrote a memorandum to Rhonda Robertson, a consultant, concerning LINCS grants. The memo states,

These grants are in a very sensitive area. They will be subject at some point, I believe, to considerable scrutiny. We need to discuss the other grants you propose to make. They all call for worthwhile, very important, activity. But as described in your forms, it may be the very kind of activity Congress has specifically prohibited us from funding. Maybe they can be turned into training proposals. Funding even arguably illegal activity at this time could greatly jeopardize Federal funding for legal services this year and in succeeding years. We just can't risk it.

I would put this in the record as Bradley Document No. 19.
 [The document referred to follows:]

The CHAIRMAN. In your opinion, was this grant designed to instruct individuals in advocacy—and, I might add, as to item No. 3, which I just read to you, and let me do it again: "To research and publish a peoples' alternative to budget cuts and tax issues"—was that within the law, as interpreted by the Comptroller General at that time, or did you just not know about this one at the time?

Mr. BRADLEY. I honestly did not know. I was just asking about it.

The CHAIRMAN. But you would agree with me that there is something wrong with that?

Mr. BRADLEY. Yes.

The CHAIRMAN. You would agree that the criticisms that have been raised about that are valid criticisms?

Mr. BRADLEY. I would agree with you.

Mr. LYONS. Mr. Chairman, I would like to submit something later on for the record on this. My recollection of going through some materials is that I saw a letter from the project director of this program, indicating that the facts on this grant were different than what is set out here. So I would like to submit something further.

The CHAIRMAN. Why don't you submit that for the record, and we will put that in the record at a later point.

[EDITOR'S NOTE.—See Lyons response, dated Aug. 10, 1983, p. 535.]

The CHAIRMAN. Mr. Askew, you signed the check with regard to this one, but you may or may not have known that you were signing it.

Mr. ASKEW. Signed a check?

The CHAIRMAN. Yes; you signed the check to this particular LINC group?

Mr. ASKEW. No, sir. I did not have the authority to sign grant checks.

The CHAIRMAN. I am just about through. My colleagues have been very patient with me, but I think once I get through all these then we have a number of illustrations that I think are pretty important. In a memorandum, the coalition states that its purpose is twofold: First, to oppose all budget cuts on social programs; and second, to oppose all attempts at block grants. Mr. Bradley, I think you would have to agree with me that the coalition has a political purpose when it's doing things like that?

Mr. LYONS. We never made a grant to this organization, Mr. CHAIRMAN.

Mr. BRADLEY. I never heard of the Coalition for Sensible and Humane Solutions. I never in my life heard of that one.

The CHAIRMAN. Let me put into the record at this time, then, Bradley Document No. 25.

[The document referred to follows:]

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April 1981

MEMBERS OF THE COALITION FOR SENSIBLE AND HUMANE SOLUTIONS

- REDEVELOPMENT OPPORTUNITIES FOR WOMEN
- ✓ AMERICANS FOR DEMOCRATIC ACTION
- NEIGHBORHOOD RESOURCE CENTER
- LUTHERAN FAMILY AND CHILDREN'S SERVICES
- COUNCIL OF NEIGHBORHOOD ORGANIZATIONS
- ✓ THE LAWYER'S GUILD
- WASHINGTON HEIGHTS NEIGHBORS ASSOCIATION
- SOUTHSIDE WELFARE RIGHTS ORGANIZATION
- ARCHDIOCESE HUMAN RIGHTS OFFICE
- ST. LOUIS ABUSED WOMEN'S SUPPORT PROJECT
- ST. LOUIS ALLIANCE OF COMMUNITY BASED ORGANIZATIONS
- SISTERS OF ST. FRANCIS
- AMERICAN FRIEND SERVICES COMMITTEE
- NOPING
- NATIONAL YOUTH LAW PROJECT
- WOMEN'S RIGHTS ACTION GROUP
- METRO HOUSING RESOURCES
- CASS CATHOLIC WORKER
- UNITED WOMEN OF ACTION
- NATIONAL ASSOCIATION OF CONCERNED VETERANS
- AMERICAN MEDICAL STUDENT ASSOCIATION-WASHINGTON UNIVERS
- NEW DEMOCRATIC COALITION
- AMERICAN MEDICAL STUDENT ASSOCIATION-ST. LOUIS UNIVERSI

Coalition members can participate in any or all of the activities listed below:

1. Participate in Coalition or Steering Committee meetings to plan activities and exchange information
2. Participate in any of the 5 working committees (Immediate Battles, Media/Outreach, Training, Alternative Resources, and Counterplanning.
3. Add your name or your organization's name to the growing list of Coalition members
4. Provide financial contributions
5. Volunteer resources of your time, office or meeting space, copying, typing, etc.)

PLEASE OFFER YOUR SUGGESTIONS, IDEAS OR CRITIQUE BY CALLING ANY ONE ON THE STEERING COMMITTEE:

Pleasant Lindsey: 241-7500	Mary Jackson: 773-2826
Eddie Mae Binion:	Jan Hoeferkamp: 361-2121
Joe Lipofsky: 454-6860	Sherry Olson: 776-6287
Linda Holtzman: 771-1683	Mike Magrath: 454-1058
Bill Elmore: 647-0979	Brenda Hamon: 535-6425

The CHAIRMAN. As I understand it, members of this coalition included Americans for Democratic Action. Am I wrong on that? The Coalition for Sensible and Human Solutions.

Mr. BRADLEY. I am looking at the document you have just handed me, and it does list about 20 organizations. But I think the record should reflect, Mr. Chairman, certainly based on my recollection, I have never heard of this coalition.

The CHAIRMAN. Based upon the documents that we received, they said that they did receive funds.

Mr. ASKEW. The letter that Mr. Lyons referred to, Mr. Chairman, was from the project director of the St. Louis Legal Services program, and I will quote you—

The CHAIRMAN. That is the letter from Joseph Litomsky?

Mr. ASKEW. No, from Richard Tidalman to Congressman Sensenbrenner. I do not believe you have that in front of you. We had requested information from him. He said that to his knowledge the group may have submitted an application to the Legal Services Corporation but it was denied. It was not funded. So I think what you have in front of you is an application for funding that we do not approve.

The CHAIRMAN. Let us check it through, because we were told that it was funded. Nevertheless, it looks pretty political to me. Maybe that is why it was rejected.

Mr. BRADLEY. I hope so.

The CHAIRMAN. It looked political to you, did it not?

Mr. BRADLEY. It certainly does.

The CHAIRMAN. I might just say this, under both current and prior law, funding would have to be denied because the purpose of this organization stated was lobbying. You have answered the question right down the line with me, have you not? You agree with me on that?

Mr. BRADLEY. I could not agree more.

The CHAIRMAN. At the outset of the inquiry, we referred to your letter dated May 11, 1981, which stated that you intended to abide by the Comptroller General's opinion. Let me just say this—and apologize to my colleagues once again—you can see why I have been upset, why I am concerned. I would rather see these funds blocked than granted. You have indicated in your opening remarks that there are faults, there are problems, there are things you wish you had not said, and things you wish others had not said, and memorandums that had been written that you wish had not been written, politicization that was there that should not have been there. But on the whole, you felt that the Legal Services Corporation did the job for the people throughout this country.

That may very well be true. I don't know. All I can say is, I think that the complaints that have been made against the National Legal Services Corporation have been legitimate complaints. I think that just the illustrations that I have given you here—and there have been plenty, and I think there are plenty more—those illustrations indicate there has been a lot of politicization of the Legal Services Corporation, or at least of certain entities that have been funded or grants that have been given. Nobody knows how far that permeates the whole society. You can fund one group and have the whole society permeated. What I find personally repre-

hensible is any organization of government, Legal Services or whatever it is, funding other organizations that are dedicated to political activity for one side or the other, or any side of these issues—sometimes more than one side or the other. I think you have agreed with me on that, and I appreciate your candor. You have agreed with me, I believe.

Mr. BRADLEY. I have.

The CHAIRMAN. I appreciate your candor, and you have always been candid with me. I have appreciated that, and I have respected you for it. You can see why some of the criticisms that have been raised, even by people with whom you violently disagree, are valid.

Mr. BRADLEY. Yes.

The CHAIRMAN. All I can say is that I am concerned. I sometimes think it would be better to block grant these funds and let the bar associations administer them. They would probably use these same entities, but I think you would have a lot less political handiwork. I think you would have a lot more of these funds going for actual poor people's problems rather than political problems, and I do not know that you would even disagree with me on that. You might disagree with me on the block grant, but I think you agree with me that these money ought to go for poor people's problems and not for political problems?

Mr. BRADLEY. I do agree with that statement.

The CHAIRMAN. I apologize to all my colleagues again. Senator Eagleton, we will turn to you. As soon as you have finished, we will go with Senator Denton and then Senator Grassley. I have to step out for a minute.

Senator EAGLETON. Thank you, Mr. Chairman.

At the beginning of my questioning, I would underscore for the purposes of this record a couple of the statements that Mr. Bradley has made because I agree with much that he has said in his, Mr. Bradley's, opening statement. He speaks rather rapidly, so I may not have it precisely verbatim. He spoke to this effect:

"Most attorneys—referring to Legal Services' attorneys—most programs totally function in a completely legal and proper way." Later on in that statement, he said, "There have been some mistakes. Some suits should not have been filed. There have been some misjudgments."

I wholeheartedly agree with both of those statements. My role here today is not to be an apologist for the mistakes that have been made. I do not serve as an apologist for the Houseman memos that Chairman Hatch went through, very properly and legitimately, or some subsequent memos that he went through where excesses were committed by various Legal Services personnel. Of the questions before this committee, one is a macro question and one or two are micro questions.

The macro question is, Because mistakes have been made, misjudgments, some coming out of the Washington office and some coming out of field offices and regional offices, should we abolish the Legal Services Corporation in toto, go the block grant route that Chairman Hatch alludes to, or turn it over to the American Bar Association, as Chairman Hatch has sometimes referred to. My answer to that is "no." If there have been mistakes—and there have been—then the mistakes should be rectified, but we should

not destroy the Legal Services Corporation because mistakes have been made.

Now, the micro questions deal with certain activities of the Legal Services Corporation and its local entities throughout the State. We have heard a lot of the testimony through the years. They come down to two basic areas that are apparently very ticklish and cause a great deal of problems. One is class action suits, and the other is the focus of today's hearing, at least thus far, lobby before either State legislatures or the Federal Government or, I guess, local city councils for that matter.

The chairman sometimes refers to all of this in the lobbying context as "political activity" or "political purposes." I would be the first to say that it would be improper for the Legal Services entity to participate directly or indirectly in any kind of partisan political activity. However, if appearing before a legislature or a legitimate purpose to serve poor people, in the interest of legislation that impacts upon poor people, I would not define that necessarily as prohibited political purposes. Let me illustrate it with a few hypothetical cases that come from reality. I am not going to bother going through each State or each city that engaged in this, but I will do this in the form of questioning the individual witnesses.

Let us assume that an urban legal services office had a lot of cases on lead-based paint. Poor individuals, say mothers primarily, have come in, in significant numbers, complaining that they live in circumstances where their children are going to be very adversely affected by lead-based paint. Let us assume that they filed some individual lawsuits against landlords, and there had been the usual foot-dragging and inadequate response that one or two or three or four individual lawsuits brought about—not much in the way of response.

And let us assume that there was legislation pending before the city board of aldermen on lead-based paint which, in one fell swoop, would do more to rectify the situation, if the ordinance were adopted and enforced, than continuing to file this suit, that suit and another suit. Does each of you agree that under such circumstances, putting aside the current prohibition which I agreed, Mr. Bradley, is total—that the writers of the 1983 appropriations bill, what we call the Moorhead amendment—putting that aside, going back to previous law, or contemplating a new law—

There is a bill Senator Weicker and I have introduced that goes before this committee. Is it not a legitimate role on behalf of poor people in this lead-based paint situation for the Legal Services Corporation to lobby before the city's board of aldermen on behalf of their clientele to try to get a legislative remedy to the dilemma?

Mr. BRADLEY. There is no question, Mr. Eagleton, not only does the law permit that but it is the duty, and the professional responsibility and obligation of that attorney representing his or her clients, to represent that client's interest in whatever form and whatever way permissible by law to achieve those clients' objective. Clearly what you have just outlined is not only professionally sound and wise, but our programs ought to be congratulated and commended for pursuing that course of representation because it is in fact the most economical and the most effective and the most efficient way to represent the individual and the collective interest.

of those clients. The program ought to be commended for doing that.

Senator EAGLETON. Do each of you gentlemen likewise agree?

Mr. LYONS. I agree.

Senator EAGLETON. Mr. Askew?

Mr. ASKEW. I agree.

Senator EAGLETON. And Mr. Singsen?

Mr. SINGSEN. That is right.

Senator EAGLETON. All right. Let us take another one. This one comes from the State of Georgia. A Georgia statute permitted service in eviction cases by tacking a notice on the door. Sometimes the notice would blow away. Sometimes it was torn off by someone passing by the building or otherwise lost. The Georgia legal services group contemplated litigation but decided instead to bring the problem to the attention of the Georgia Legislature. As a result of legislative advocacy, the Georgia General Assembly passed legislation requiring mailing of the process of dispossession.

Now, there is a real live case. Again, going back to previous law, Mr. Bradley and gentlemen, would you view that as a legitimate public interest, a legitimate way of representing poor individuals in the State of Georgia in this context?

Mr. BRADLEY. Absolutely. Definitely, yes.

Mr. LYONS. Yes, sir.

Mr. SINGSEN. Yes, sir.

Mr. ASKEW. Yes, sir.

Senator EAGLETON. This is another situation. A State had a history of being rather tardy, delinquent, and late in getting out its welfare checks. Some individual cases were filed, and although one or two of the cases were won on behalf of the individual, it did not do much for the more broadly based group. The legal services entity went before the State legislature and sought remedial legislation to insure that State welfare checks would be mailed out on time, as is contemplated by Federal law. The question is the same as before: Is this a legitimate role for a legal services entity to play in representing its poor clientele?

Mr. BRADLEY. Yes, most certainly.

Mr. SINGSEN. Yes.

Senator EAGLETON. Let me ask one that I will state up front I think is an improper one. I am making this totally up. I have no precedent. It may have occurred, but I do not know that it has. Suppose a nuclear freeze resolution were pending before a State legislature—indeed, as has been pending before the Federal Congress and passed the U.S. House of Representatives. Let us take it out to the State level, and let us say there is a nuclear freeze resolution pending. A poor individual comes into the Legal Services Office somewhere in that State and said, I feel very concerned about the nuclear freeze. I have strong feelings on this. I am a poor individual. I cannot afford to hire a lobbyist to go down to the State capitol. I request you to go down to the State capitol and represent me in a lobbying capacity in support of a nuclear freeze resolution. What would you say about that hypothetical case.

Mr. BRADLEY. I think that as a lawyer, under existing law you made reference to, if that client—

dled them as well as the people in Utah—and I am not just saying that because I am from Utah—they really do try to make them work—I think we maybe would not have these problems today. But unfortunately, there is a widescale problem here. Now, if it is 1 percent, it is a serious thing, because 1 percent movement can change the whole country, if it is lobbying hard enough or politicizing well enough. That is the point. Who is to say what impact it has, whether it is 1 percent or 30 percent or 15 percent.

I am sorry, Tom.

Senator EAGLETON. Let me ask the chairman this. He always talks about "political purposes." He said "liberal" or "conservative" or what have you. In my lead-based paint case, where the legal services entity went before the city board of aldermen and lobbied on behalf of poor people to have changes made in housing code enforcement so as to deal with the lead-based paint problem, is that a "liberal" issue, a "partisan" issue, a "conservative" issue?

The CHAIRMAN. I think it is an honest legal issue. I have no problem with that. All I am saying is that the issues I have brought up here today I do not think are honest issues. I think they are issues that anybody has to criticize, and you have been honest enough to do so.

Senator EAGLETON. So there can be a legitimate role for lobbying on behalf of poor people under certain circumstances.

The CHAIRMAN. I would not call that lobbying. I would call that legal advocacy in that case. I call lobbying when you are lobbying for political purposes. There is nothing political about trying to save people's lives who have been exposed to lead poisoning, in my opinion. I imagine we could both find cases on either side of that which we might find objectionable, and we would both agree. I do not think you and I are going to disagree very much on what should be done and what should not be done. But the points that I have been bringing up are very serious, and everybody here agrees they are serious. Some are illegal and some are certainly improper.

Senator EAGLETON. One quick question for a quick answer by the entire panel, as a footnote on class action suits. Does each of you agree that the ability to bring, under proper circumstances, a class action suit may be the most efficacious way to try to resolve a situation that is adversely impacting poor people? *

Mr. LYONS. Senator, anybody who has practiced law with limited resources, with any number of problems coming in the door day after day, particularly with respect to public benefit programs affecting a whole class of people, understands very clearly that the class action mechanism is an efficient way of representing clients around the same kind of issues. I frankly do not understand why that is such an area of controversy.

Senator EAGLETON. Do the other three of you agree?

Mr. BRADLEY. I could not agree more.

Mr. ASKEW. Yes.

Mr. SINGSSEN. Yes.

Senator EAGLETON. One final note, Mr. Chairman, I misspoke earlier in my testimony. The Moorhead amendment to which you referred, Mr. Chairman, was part of the 1979 fiscal appropriation bill. What we are operating under now in the fiscal year 1983 continuing resolution is another concoction—I do not know whose

name it bears. It has a strong prohibition clause, part B, but it also has a permissive clause, part A. As I read it, and I am going to put it all in the record, my lead-based paint case would probably still be permissible under the existing 1983 continuing resolution. At least that would be my interpretation of it. Therefore, I ask unanimous consent that the full text of the provision, with both clause A and clause B be printed at this point in the record.

The CHAIRMAN. Without objection, it will go right in the record at this point.

Senator EAGLETON. I thank you, Mr. Chairman.
[The material referred to follows:]

Moorhead Amendment:

"Provided, No part of this appropriation shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any State Legislature."

State, Justice, Commerce Appropriations
for Fiscal Year 1979

"Provided further, That none of the funds appropriated in this Act shall be available to any recipient to be used . . . to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications made in response to any Federal, State, or local official, upon the formal request of such official."

Final Continuing Appropriations for
Fiscal Year 1983

The CHAIRMAN. Senator Denton?

Senator DENTON. Thank you, Mr. Chairman I am trying to keep my thoughts in context with what I think is the basic question. It has been the basic question since I was given jurisdiction over the Legal Services Corporation a couple of years ago. And that is whether or not the Government funds which had been provided to the Legal Services Corporation had been used to assist the poor when they cannot afford legal representation, or have they been used in other manners or other matters which are expressly prohibited by the regulations respecting that organization.

I have come upon what I consider to be at least noteworthy information, which would imply that it is not just a minor, tangential exercise which represents exceptions to the general conduct of the Legal Services Corporation or, indeed, represent exceptions to the leadership positions taken by some within the Legal Services Corporation over the years. In other words, I do not think this is a rebellion or exceptional behavior on the part of those who can be criticized by the bosses of the Legal Services Corporation, but rather is something they were doing in response to those bosses. I will go into some material which addresses that possibility.

Mr. Lyons, I have some notes here which were taken by Mr. Askew at a legal services meeting. These notes quote you as saying,

People give institutions their values. The institution is not the value itself. If the values change and the institution changes, then you need to find another vehicle for the values. We chose to use this institution [that is, the Legal Services Corporation] to implement our values and philosophy. When we lose control of the institution, we have to accept that as part of the political risk we took. The test of leadership is whether we can get the values and ideology implemented without control of the institution.

This deals with something that has not been mentioned yet, namely that there may have been a perception that there would be a change in administration. The values previously forwarded and behaved in accordance to by the Legal Services Corporation were going to be in some jeopardy, and that perhaps it would be a good idea to stash away the means by which those values and ideology could continue to be implanted, although control of the institution would be lost to those who did not share those values—namely, the next administration.

Mr. Bradley, in the spring of 1981, appeared before the Senate Appropriations Subcommittee on the Departments of State, Justice, Commerce, and the Judiciary and stated, "The members of this subcommittee understand, I know, that there is no way to make any significant cut in the Legal Services budget without cutting directly into service to clients." You went on to cite several examples of effective cutbacks in the Legal Services budget, stating that in 1980, "New Haven Legal Assistance turned away 8,000 eligible clients because they did not have the attorneys or paralegals to help them." In 1981, in Wilmington, Del., "the Legal Aid Society closed intake on family law matters for 4 months so that the backlog of cases could be handled." You said at the same hearing, "There is very little that can be done to meet rising costs, short of reducing available services."

There will be information presented which I believe indicates that indeed there was plenty of money available for service to validly poor and needy for Legal Services clients, but that this money was being diverted for other purposes which had to do with making sure that the values and ideology implanted would continue when the control of that institution was lost other evidence will be presented that indicates that the funds which may have been appropriated in 1 year under a certain set of rules and with a certain set of values implied in the language of the legislation, those would be carried over and used in a time in which the rules were changed and yet not the conduct of the Legal Services Corporation because

they would be continuing to use funds previously appropriated, and we had some remarkable things going on during that timeframe.

Mr. Bradley, Mr. Askew's notes of January 6 and 7, 1981, regional director's meeting contain the heading, "RO"—that is regional office—"role and responsibility re survival." It makes clear that they expect the RO's to be a focal point, regardless of what the purposes are, and there is an allocation of RO resources to do this work regarding survival, which we will make clear as we go on. The OFS survival coordination in the District of Columbia that provides information, communication, and help to each RO person and the purpose was to protect the legal services movement or consider all issues related to poor people.

And here is a rather revealing interpretation from Mr. Salvador Tio, who I believe is in the New York Regional Office as the director. He says, "In the wake of the recent national elections, a flurry of activity has taken place to develop the capability of the legal services program to thrive and survive in a potentially hostile environment." He is talking about a flurry of activities within the Legal Services Corporation to develop the capability of that program to thrive and survive in the potentially hostile environment of the newly elected people.

He says there is a need to "develop a local base of support" and "to create and coordinate an organized effort at each State level." He writes, "Program directors will play a key role in developing the effort, and the development of political intelligence is essential." Finally he writes, "Training for technical assistance should be forthcoming from LSC to help develop and reinforce skills needed to effectively execute plans to build a local base." And we have the agenda attached for January 14 and 15, 1981, meeting to discuss coalition building. That is a coalition to do things to insure that these values will be passed on after the control is lost.

Mr. Bradley, I have here notes taken by Mr. Askew, dated February 2 and 3, 1981, I believe, in a meeting of regional directors and deputy regional directors. It refers to you, Mr. Bradley, and you have excused yourself from things that happened after your time, but I have to introduce the information about what you have said before your time ended. It refers to you as saying: "Could add dollars to regional office budget for survival or could add dollars to TA accounts—technical assistance accounts—for survival, or add new dollars to State support." There are a lot of quotes in the notes about "a survival pot" and "a survival kitty."

Before I go on, I will ask a question, and then I will undertake to introduce information for the record which indicates that this kitty included money put into buildings for capital stashing away, while you were here before Congress saying that there wasn't any money for taking care of these poor people's legal needs. How could you come before the Congress and say what you said, knowing that substantial resources were being devoted, not to client services but rather to self-preservation, in the connotation of that which has already been read?

Mr. BRADLEY. Senator Denton, I want to make it crystal clear, unequivocally clear—I have said it before, I will say it again today, and I will say until the Lord calls me home—I did everything that I could, during my presidency at Legal Services Corporation, within

the law as I interpreted it, to make sure that the Legal Services program continued. Some people may have called that lobbying; I do not know if it was lobbying. Some people may have called it legislative representation; I do not know if that is what it is. But I represented the interest of the Legal Services Corporation before the U.S. Congress to insure that the program continued.

There was absolutely no question. In my testimony in several years, Mr. Denton, before the Senate Appropriations Subcommittee, that we were in fact faced with the reality of reducing our funding level from \$321 million to \$240 million. That was a fact. Members of that committee, the Weicker subcommittee, asked me what effect is that going to have on the delivery of legal services. In a very simple way—and I even used pictures; I had charts; I had photographs; I had every kind of visual exhibit that I could take before that subcommittee. I said to the members of that committee, it is very clear when you are reducing the funding level from \$321 to \$240 million, there will be reductions in the number of attorneys.

We cut every program by 25 percent. In some instances, in Georgia for instance, that used to have 27 local offices, they closed some of their offices. I now serve on the board, Mr. Denton, of the Miami program in south Florida. That program at one time had seven neighborhood offices. Because of the funding cutbacks, the reduction in the funding level, the staff, we have now closed three of those offices. I doubt if there is a State or an area of this country where we have not terminated employees, lawyers, paralegals, secretaries, where we have not reduced the number of offices. That stands to reason.

The question you are implying, Senator, on the fund balances, never ever has the Corporation failed to reveal to the Congress the fact that we have reprogrammed carryover unexpended fund balances. The question is why: Was that a logical, an orderly, a wise administration of Federal funds? I submit positively and unequivocally that we ought to be commended for it rather than criticized.

When we were part of the economic opportunity program in CSA, in all Federal appropriations, Mr. Chairman, all forms unexpended at the end of the program year automatically lapsed back into the Federal Treasury. One of the things that the Congress decided to when we fully discussed this issue, and when we came into being, the Congress—and it is in the current law—said all funds not expended at the end of the program year, instead of reverting back to the Treasury as they do in every other Federal agency, shall remain available to use for expenditures consistent with the Legal Services Corporation Act.

I would submit, Mr. Chairman, that it was wise, prudent management on the part of those programs that had unexpended fund balances to reserve those funds to assist in absorbing the 25-percent reduction that every program in this country had to face in 1981 and 1982.

Senator DENTON. All right, sir. One aspect of your response is that to your knowledge, the manner in which these unexpended funds were used was entirely legal, known to the Congress, and there is no impropriety in the way the money was stashed away, nor was there any intent to stash it away until such time as it

any particular malice. The word "ideology" is not mine; is it one which is included in these documents.

I will admit we are not having a final ascertainment of the validity of these documents. But I believe we shall.

Mr. SINGSEN. Senator, I would like to add one thing if I could about the values issue. I cannot speak for every one of us. I, myself, have never done anything in partisan politics at all—nothing. Legal services is my entire professional life. The values that I think you will hear talked about in legal services are not partisan political values. They are not radical values. They are, in fact, the values of the act: high quality, efficient, effective service for poor people, responding to the needs of poor people in locally determined situations.

The problem in the spring of 1981, as you may remember, is that the President at that time had proposed that there be no such program, that there be no continuing service of that kind. It seemed entirely likely that if there would be such a program, it would be led by a new board of appointees for whom there would be serious question about whether those values—the professional values of legal services programs as set up in the act—would be preserved. Indeed, I think this committee asked precisely that question of every nominee who came before it last summer, and ultimately in the fall and winter. The Senate was unable to move ahead to confirmation, perhaps because of doubts about commitments to those values.

I think you have to understand a set of notes about a conversation in that context. I do not think we are talking political ideology at all.

Senator DENTON. What you said comes to me with a tone of total sincerity. I believe that any administration can be accused of wanting to change policy through a different set of values which they feel mandated to apply, having been elected by the people, which is the way this Government works. For there to be implanted within the bureaucracy others who have a different thrust of how the system should work, I can understand the anxiety they might have about that. If we are talking about simply providing the money to those who need it for legal services, that is one thing. If we are talking about some other things, that is another.

Mr. Askeu. I have here some of your notes, again, in which you write, "The function of leadership is particularly critical in legal services, since the felt gap between the aspirations of 'the movement' [in your quotes] and then your parentheses—This is the definition of the movement. I want to get this straight now,—" between the aspirations of 'the movement' [that is, the values you guys were talking about] (social change, redistribution of wealth, empowerment of poor people)—"

I guess "social change" is all right. I suppose "redistribution of wealth" is all right, but you would maybe have to define that a little bit. And "empowerment of the poor people" I do not know; they get empowered by knowledge, they get empowered by assistance. But what do you mean by these things?—"the aspirations of the movement" (social change, redistribution of wealth, empowerment of poor people) and the day-to-day activity is so great—"That the felt gap between those aspirations of the movement and the

day-to-day activity—that is the old, common, ordinary, let's-just-help-them-get-their-legal-service—there is a great gap between the two.

"Today, with the dramatic threat to legal services, leaders must (underlined) more than ever before be effective at making sense of what is going on (dealing with anxiety)." Would anyone want to comment on what is meant by "social change, redistribution of wealth, empowerment of poor people" as the values that must be maintained within and imparted by the organization when you lose control of that institution? I think there is a valid question here.

I believe that your motivations—those who would do this—are sincere and compassionate. I believe the motivations of those who would have changed the emphasis and meant to change the emphasis of activities of the Legal Services Corporation were also sincere and also compassionate. The question of which deserves the priorities is determined by the American people, both with respect to that and other issues and policies within Government.

I find it American because I am afraid it happens too often. But I find a bureaucratic stability, a status quo, which tries to perpetuate itself in spite of that which the administration has put in and what policies they tried to impart. I am not saying that the administration is going to be 100 percent correct. But I am saying that we are a government of law, and we are a democracy. If our people elect a President and he appoints people to be the heads of boards of the Legal Services Corporation and things like that, there ought to be some kind of following of those policies, not undertaking activities such as these.

Another memorandum, August 21, 1981, circulated to the Atlanta regional office attorneys staff, has a heading "The Creative Ways of Using Fund Balances." Under this head are the following—and I can give you a number of innocuous ones—interest-bearing accounts, contracting employees, capitalizing reserves, prepaying supplies, and equipment mortgage. But there is another heading which reads, "Hiding Fund Balances—Restricted Liabilities."

I have another set of your notes, Mr. Askew, from an undated regional directors meeting, the heading "Fund Balances" appears with the word "invisible" written in beside it. "Invisible" is the word written in beside the typed word "Fund Balances." Under the heading were the categories "Capital acquisitions, Front funding of pension benefit programs, Liability for unemployment" and whatever this means, "Clint's message about fund balances."

What are invisible fund balances and why were you advocating ways to spend these balances if it did not have anything to do with serving poor clients, such as capital acquisitions? It has been explained to me that it is OK, but it appears to me that it was a carryover, a stashing away, an intent to carry out with those means a constant set of values and a thrust of implementation which was not intended by the administration or by Congress; What is meant by "Liability for unemployment" and "Clint's message about fund balances"?

Mr. ASKEW. Senator Denton, I do not have the notes that you are referring to, so obviously I am at a little bit of a disadvantage to remember what you are referring to. In terms of the funding of employment, most of the items that have been referred to today,

the issues that have been raised, happened in a fairly compressed period of time when the senior staff of the Legal Services Corporation, and indeed the grantees that we fund, did not know whether they would be funded to operate into 1983. That raised for us at the Legal Services Corporation very serious fiscal and ethical issues about the representation of clients beyond January 1, 1982, assuming that we would not be refunded by the Congress to operate in 1982.

Because of that, we began looking at the issue of fund balances in ways that programs could protect their employees and protect the service of clients into the future to make sure that those cases were handled properly, were closed out in the best interest of those clients, regardless of whether the Legal Services Corporation was able to continue funding those programs into the future.

The issue of funding unemployment, I think, is a very legitimate concern of people who may be out of jobs in the future, to make sure that their unemployment benefits are completely paid up, that everything is taken care of, so that if and when unfortunately they would have to be laid off—and indeed, during 1982, thousands of people were laid off—that all of their unemployment benefits would be up to date.

The issue of "invisible fund balances," you may be reading something there that is not there. I do not know what I was referring to. But I know that during 1981, we mounted a major effort—and this was before any of this was ever made a public issue or in the press—to find out from every program in the United States what their fund balance was, what their plans were for the use of those fund balances, and we did a very serious effort monitoring and working with those programs, and then adopting a policy in 1982 that is now being pursued to spin down those fund balances.

On the issue of capital acquisitions, I can tell you that the New Orleans building was not approved for purchase, as long as we were at the Corporation. I do not think it has been today. It was specifically rejected by the regional director in Atlanta toward the end of 1982 or in early 1983. Now, whether that rejection has been reversed at this point of time, we really do not know and we were not there to control that issue.

Second, in terms of capital acquisitions, I can think of no issue that the regional offices, who had responsibility for reviewing and approving those purchases, no issue where more careful thought, careful review, intervention with programs, was given than the issue of capital acquisition. Every building that was purchased was very carefully documented, very carefully reviewed. The Corporation has maintained an interest in the disposition of that property. I am not aware since 1976 of any building that has been purchased that has resulted in a dollar's loss of funds to a local Legal Services program or to the Corporation. They have been judged on strict business principles.

Senator DENTON. OK. I do not mean to interrupt. You are answering in a way that is logical. All I would say is that there is a chance, and I think it deserves to be looked into, that this money was being put away into a form which would make it unexpendable for those who needed legal services, simply because it was in the best interest of those people. It may have been put aside because

Denton Document No. 13

LEGAL SERVICES CORPORATION

JUNE 1981

MEMORANDUM

TO: Regional Directors

FROM: Hulett H. Askew *B*

SUBJECT: Various Policy Issues

All of us who work in legal services are now caught in a time of great uncertainty. The very survival of the Legal Services Corporation is still in doubt; and assuming that the Corporation survives, a multitude of issues such as the appropriation level, new restrictions on the Act, the appointment of a new Board, and staffing changes in Washington make decision-making at this time very difficult. The ABC&G Committee has been meeting regularly over the past several weeks to address this problem. The Committee has decided that some decisions can and will be made now; some will not be able to be made until later; and that there are some issues because of their very nature, that most likely will not be addressed at the national level. This paper is an attempt to categorize those issues and to provide guidance to you on the decisions that have been made. One of our goals in doing this is to confront the uncertainty that surrounds us and hopefully free up the Regional Offices and program managers to move forward in a constructive way.

The ABC&G Committee has agreed to several basic assumptions which have influenced the decisions it has made. First, in terms of the future, the Committee unanimously agrees that the Corporation will survive, but with new restrictions on program activities and a reduced appropriation level. Second, the Committee's position is that at any funding level the following four activities must be maintained: 1) national support capacity, 2) state support capacity, 3) training capacity, and 4) the Regional Offices (with a technical assistance capacity). The obvious condition to this position is that the Congress or the new Board may mandate otherwise; however, it is a unanimous and firmly held position of this Committee that these activities must be continued in the future.

Third, it is also the assumption of the Committee that the field generally, and the Regional Offices are willing to accept leadership from the Corporation on most if not all of these issues; but as time passes, our ability to influence events and decisions will dissipate. Fourth, and finally, beyond the need to provide leadership, the sense of the group is that now is the time for the Corporation to focus attention on the need for programs to begin their contingency planning even though there is massive uncertainty; and the Regional Offices must be prepared to support

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and assist program planning to the maximum extent. It is clear that the reality of reduced resources must be accepted and confronted now.

The recent meeting of Regional Office staff to discuss retrenchment has raised many issues and questions that need to be addressed by the senior staff of the Corporation. The issues range from the very broad to the very specific (from the philosophical to the technical). Upon reviewing the results of that meeting, I have concluded that the issues identified tend to fall into three general categories: 1) funding policies of the Corporation; 2) other policies of the Corporation; and 3) Regional Office roles and responsibilities in the future. Attached to this paper is a memo to Clint and myself from Ken Smith and Tom Pipal summarizing the results of the retrenchment meeting. Rather than take the issues in the order presented by Ken's memo (or defined in those terms), I will address the three overall issues in general. The June Regional Directors meeting will serve as a forum for a more detailed discussion and reaction by the Regional Directors.

1. Funding Policies. Given the assumption that a reduction in the Corporation's appropriation is inevitable, the first obvious question is how the Legal Services Corporation will allocate funds to legal services programs (and itself) to absorb these cuts. NO decisions have been made in this regard, and discussions which will lead to decisions have only now just begun, both within LSC and the field. Therefore, this is one general area where the Corporation cannot provide specific, reliable answers to many of the questions being asked at this time.

That does not mean, however, that the Legal Services Corporation and Regional Offices cannot provide guidance and support to programs to help them prepare for the inevitable. Our message to the field should be that reductions are a reality and contingency planning should be underway immediately to smooth the transition to a lower level of funding. ABC&G strongly recommend that legal services programs prepare at least three contingency plans for the future based upon reductions in their LSC grant level of 25%, 50% and 100%. The House Judiciary Committee has recommended \$260 million for FY '82. We hope that we can obtain a higher appropriation, but \$260 million may well be the maximum appropriation LSC receives. We also recognize that Congress may not appropriate any funds for the Corporation. Therefore, although we do not anticipate it, a plan should be prepared by each program assuming that no grant will be forthcoming from the Corporation in 1982. However, the major effort should be devoted to developing plans anticipating a 25% and 50% cut in LSC funding.

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Beyond encouraging and helping programs to begin contingency planning, we see a very active role for the Regional Offices during this entire retrenchment period (much of which will be discussed later in this paper). As you know, we in Headquarters are working on several strategies that will support your efforts to be of assistance to programs. Ken Smith and Tom Pipal are working with the Wharton group to do action research in the retrenchment management area, and also to provide you with resources and ideas that you can utilize in your work with programs. I have also contracted with John Arango and Ken Neiman to visit each Regional Office and discuss with your staff their ideas about the process of planning and the Regional Office role in it. They have already done this with the Chicago staff, and that Regional Office found it to be very productive.

The question raised regarding what funding levels programs can anticipate really asks what the funding policies are going to be. This sets to several of the other issues asked, such as minimum access, fund balances, dollars above minimum access and so on. Once again, the senior staff and Board have not addressed these issues and no decisions have been made. Yet on some of them, I believe we can give some conditional guidance. The conditions are these: 1) Congress may legislate away our ability to control some of the outcomes; and 2) There may be a new Board in place by the time budget decisions are made, but it is unlikely.

However, the ABC&G Committee agrees that it is necessary to go forward with the discussion of these very important problems. The first issue raised symbolizes the very difficult decisions that the Corporation will soon face - the Corporation's policy of "minimum access" and whether it will be abandoned with a smaller appropriation. Minimum access has been defined as \$8.23 per poor person as a minimum funding level for all programs. Congress has provided the Corporation with a 1981 appropriation to accomplish minimum access under this definition. However, the Corporation's definition of minimum access as a funding mechanism has been implemented in very different ways at the local program level. The term minimum access does not mandate that an office be opened in every county, or that a certain form of delivery be required in certain situations. The Corporation has respected the local decision-making process regarding the structure of the program, the delivery system chosen, and many of the other decisions required to implement minimum access. However, minimum access did mean that some form of legal services be available to all clients who reside in funded service areas. This policy will remain during times of retrenchment as well as times of growth, as far as the ABC&G Committee is concerned. The local decision-making process will continue

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to be respected, just as it was when the expansion decisions were being made; and the Corporation does not anticipate adopting any additional policy statements or regulations regarding retrenchment by programs, with the following caveat: 1) retrenchment decisions must be made by a Board that is in compliance with 1607 and that is broadly representative of the entire community to be served; 2) a legitimate decision-making process, involving real client input, must be utilized; and 3) all decisions must be consistent with the Act and Regulations.

We see the role of the Corporation (specifically the Regional Offices) to be one of supporting, assisting, and in some cases prodding programs to examine the issues and make some very difficult choices. A proactive role for the Regional Offices is our obvious strong preference (as opposed to a reactive role). We also see many opportunities for Regional Offices to interact productively with legal services programs, and all of our efforts over the next six months should be focused developmentally to the extent feasible. We also expect you to interact with programs about the legitimate role of the private bar in the delivery of services. I will discuss more specifically the Regional Office role, as we view it, later in this paper.

One of the key underlying questions to the funding issue is whether the Corporation will choose to make grant reductions strategically or across-the-board. This obviously is not a simple or easy question to answer because there are so many permutations. Does across-the-board cut mean that every entity survives and takes a percentage reduction or do some things go off the top that are particularly vulnerable? If the cuts are strategic, who decides and under what criteria? We obviously do not have the answers now, and the division of opinion on this is huge. More important for now, we also view this issue as a politically divisive one within the community. Our sense is that the decision may well play out very differently at \$260 million than at \$100 million. The debate on this issue will begin in earnest when we have a better sense of the appropriation level, and the discussion I am sure will involve all segments of the community. Until it is ripe, however, this issue must not be allowed to divert the attention of programs from the necessity of beginning their planning processes.

A related issue to this is whether the Corporation will choose to reduce all programs funded above minimum access to the minimum access level before percentage cuts are made. Once again this issue has not been addressed and there is no decision. A clear message should be given to programs that this is still an open question and precipitous action

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should not be taken assuming that the Corporation will adopt this as a policy. However, programs funded above minimum access should take this into account in their planning processes, and the Regional Offices should encourage this. There is always the possibility that Congress may decide this issue rather than the staff. However, this also is a very divisive issue in the field and must not be allowed to distract us from other necessary work.

An additional issue raised is that of program fund balances and what the Corporation's policy is in that regard. Our policy today is the same as it has been since 1978, and is one that we have consistently stated to GAO, the Congress, and to the field. The Corporation has always maintained that unexpended grant funds will remain with the recipient as long as the program has a legitimate plan for using the money. We do not intend to change that policy. However, we also do not know what a new board or staff would choose to do vis-a-vis fund balances; and programs should realize, and take into account in their planning, this uncertainty.

The issue of state support funding raises both policy and funding issues. The policy issue, which will be expanded upon in another paper is that the Legal Services Corporation and the ABC6G Committee is firmly committed to the maintenance of and continued funding of state support, and Dan and the senior staff's commitment in these unsettled times probably has increased rather than decreased. That is a firm and unequivocal decision. The reallocation issue follows from this decision. When states or individual programs were originally awarded state support funds, it was the Corporation's intention that those funds be devoted to state support purposes as long as the Corporation continued to provide the funding. Our policies with regard to discretionary funds provided to recipients as the result of a competitive grant process, have not changed. We will be particularly reluctant to permit reallocation of the state support funds until the budget for FY'82 becomes certain.

The message to you, and to the field, is that we obviously do not know what the Corporation's ultimate appropriation will be or how we will allocate that appropriation to the field. We do know enough, however, to encourage and support contingency planning by all programs at three levels. We do not expect answers to these appropriation and allocation questions before September 1, and it is possible that we will not know even then. We enthusiastically agree with the statement that the programs must begin planning now in order to preserve what is legitimately decided to be the core of each program; and we further encourage and support a thorough review and consideration of all options open to programs regarding retrenchment.

II. Other Policies of LSC: Many questions are being asked about the Corporation's policies and their impact on future events or decisions. The list enumerated by the Regional Office group is a good one, although upon further reflection I am sure we all could expand the policy questions extensively.

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The most important, and broadest policy raised in Ken's memo is the question of the Corporation's commitment to national and state support, planning, and the Regional Offices. The ABC&G Committee has discussed this at length, and unanimously concluded that all of these should and will survive in some form, Congress willing, regardless of the appropriation level. This is a very firmly held position of the group, and one that should be openly communicated to all concerned. The role of the Regional Offices will be discussed more later, but the group felt that the Regional Offices must be maintained and must have a technical assistance capacity and focus.

Ken's memo raises the issue of the 1980 census and its impact on 1982 grant awards. Hopefully, the answer to this one is simple and straightforward. Our best information is that county-by-county census data will not be available until March of 1982. That is obviously too late to impact on the 1982 grant awards; therefore, it will have no effect because it cannot.

The issue of the criteria for decisions about the reversionary interest in assets will be addressed by Mario at our Regional Director's meeting on June 3. Beyond that, I cannot provide any guidance at this time.

What policy will guide the closing down of intake by programs? As discussed at our last meeting, this is a very sensitive issue on a number of different levels. All of our grantees are funded through December 31, and it is very risky for program actions to be interpreted by clients or the Congress as shutting down operations or closing their doors. We understand, and are very sensitive to, the ethical and programmatic problems that programs face, and we are not ignoring legitimate program concerns on this issue. However, we are asking programs to stand firm with us, to the extent that they can, before moving to shut off intake. We understand the risks involved in doing this, but this is only in terms of totally closing intake. Clearly, it is appropriate for programs to review intake policies, to revisit priorities, and even reduce intake. Resource and time obligations should be carefully watched over the next few months by all programs. All these steps are not only legitimate but wise. However, the unanimous feeling of the ABC&G Committee is that the total closure of intake is premature and unwise at this time.

The issue of client involvement in the decision-making process has been addressed in the funding policy discussion. The question about what the Corporation is doing for its own people will be addressed through the work that Dan and Gerry have underway, of which you will know more later. We will be doing contingency planning for the Corporation; we will be facing the issues (i.e. protecting staff rights, helping personal transitions, and so on). As a part of that planning, the reorganization of OFS will be an issue that must be addressed; but that discussion has not yet begun; and when it does, you will be involved in it.

We are also preparing a list of many of the technical issues raised by the Regional Office group so that they can be assigned to the appropriate division or staff person for attention. We plan to provide some guidance on many of these questions in the near future.

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You should rest assured that the ABC&G Committee is fully aware of, sensitive to, the need to address many of the Corporation's policies during this period. You should continue to raise with us issues of concern to you and programs in your region, and we can assure you that we will continue to address the questions and issues you raise, or that we identify, to the maximum extent possible given the world in which we are all functioning.

III. Regional Office Roles and Responsibilities for the Future:

Before I address this topic, I would like to review briefly some of the history of this division and how it effects our response today. As you are all well aware, over the last three years we have devoted a substantial amount of time to carefully analyzing the work that we do, its effectiveness, and how it furthers overall Corporation goals. The massive changes that are upon us and the shift from growth strategies to retrenchment strategies, require that we continue this analysis and confirm that our strategies and approaches are the correct ones. However, we also must avoid the dangers of overreaction and unnecessary abandonment of legitimate policies and processes that can be adapted during this time of change.

I am attaching to this memo a copy of a paper entitled, "How We See Our Work". Clint and I have been distributing this paper as we have been doing Regional Office visits this spring, therefore some of you have already seen it. This is a section of a much larger paper that we prepared last year regarding the work we had done in our first two years in Washington as well as our view of the future. For many reasons, mainly because of the way events have unfolded, that paper was never finally completed and circulated. However, this section adequately expresses the views we held last year about our work, and we believe still expresses our view of the division's mission and the Regional Office role within it.

As I stated at the February Regional Directors meeting, it is my opinion that the mission statement adopted in 1980 still adequately expresses the purposes and goals of this division. It was adequate and useful in helping me address the Regional Office role in the survival work, and I believe it to be the same in providing guidance on our role and responsibilities for the next six months. The retrenchment process is both very threatening and an opportunity for all of us. Our work with programs over the short term must be developmentally focused and we must now reflect upon the ideas and concepts that have been presented to us by Tom Gilmore, Larry Hirschhorn and Joan Lieberman. If you review the work we did, and the materials presented, in Atlanta, Silver Spring, and Boulder, I believe you will find many useful ideas in terms of today's environment. The Wharton group and Joan are still working with us today to build upon that learning, specifically in the retrenchment area. You have already seen the results of some of that work, and we will be focusing on more of it at the July OFS staff meeting.

Since January, I have given a great deal of additional thought to the role of Regional Offices and discussed with several people a clearer sense of how to begin to get of how to define that role. In the context of the mission statement, it appears to me that the Regional Offices are currently

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playing four roles with their programs: 1) leader; 2) therapist; 3) networker; and 4) technostucture consultant. I assume that you understand the first three terms, although we may disagree with the full definition of those roles. The fourth term, technostucture consultant is one that I will be discussing more fully with you at the Regional Director's meeting, and will be the subject of much of our work at the OFS staff meeting. Technostucture is that part of an organization that is responsible for planning and analysis, and it is our sense that most programs need assistance and support from you in this area. I have concluded that our understanding of, an ability to be conversant about, theories of organizational design is critical to our ability to be helpful to programs over the next few months.

Given the fact that the ABC6G Committee has concluded that the Regional Offices play a critical role that must be continued in the future, it is necessary for us to be clear about what our proper roles and responsibilities are. When questions are asked about specific activities of a Regional Office (i.e., forcing mergers), I can only frame a response in the context of the last three years and the development of a mission statement. I cannot deal with those questions in the abstract or out of the context of my vision of our proper role and responsibility. The issue of forced mergers can be used as an example. The question as stated ("Can Regions force mergers or will they get more support and encouragement to do so?") for me answers itself. The answer, if yes, would violate the work that we have done over the last three years and would not be consistent with my vision of our mission statement. Our strategy has consistently been to allow programs to decide those types of issues for themselves and not to "force" those sorts of solutions upon the local decision-makers.

If the question had been stated - "Will we expect and permit Regional Offices to become more active in forcing discussions and processes within each state or area about cost savings, new working relationships, consolidations, mergers, and alternative delivery mechanisms?" - the answer would have been yes. We not only will allow and support it, we will expect it. However, we expect the posture of the Regional Office to be developmentally focused. We also expect you to use your limited resources strategically. We recognize fully that many tasks will have to be treated on a triage basis. We will expect you to test this on a program-by-program basis. We also recognize that your workload has increased dramatically and that your need to consult with us around choices that you must make will be increasing. I fully expect that all of us will commit ourselves to the important roles and tasks for the future, which in some cases means that we must work harder. We also commit to you that we will be available for consultation and guidance to the extent that you need it.

At the Regional Directors meeting, I plan to raise and discuss with you many specific issues about the Regional Office role for the future. The questions about annual reports, state support monitoring, annualization of outstanding grants, regional training plans, outstanding special conditions, questioned audit costs, and use of technical assistance funds are some of the many issues that must be discussed and decided in terms of Regional Office priorities for the future. My message to you is that the decisions on those issues, as well as many others, must be placed in the context of our proper role and mission. We cannot allow ourselves to be guilty of the very things that we constantly warn programs to be wary of - ad hoc decision-making with no thought to the broader implications.

I strongly feel that we have all made a great deal of progress over the last three years. We should build upon that work, rather than abandon it.

The State support system was put in place for all of those purposes. It existed largely before the election of 1980 and, I think, when you look at the record—and obviously, we want you to look at the record—it will reflect the fact that the whole State support effort had nothing to do with the kind of issues that are being raised here today. It had to do with the basic service provision to clients.

Senator DENTON. All right. Granting that there were some things like that taking place routinely before the election, I would ask Mr. Askew then about his memo of June 1981, after the election, to regional directors entitled "Various Policy Issues," in which you state that the A, B, C, and G committees' position is that any funding level the following four activities must be maintained: One, National support capacity; two, State support capacity; three, Training capacity; and four, regional offices with a technical assistance capacity. These, I understand, were dubbed by the members of the LSC "the four rubies."

We have heard what types of activities were funded by national and State support. I have here some training materials produced with LSC funds. Among them are Media Access, Getting the Greatest Benefit From Your Legislator, and Strategic and Tactical Research. The last document, Strategic and Tactical Research, includes the following statement: "Muckraking kinds of research can put pressure on key people holding up legislation in committees of city hall, State legislatures or Congress." The publication then cites an example where a Ralph Nader organization developed a strategy to put pressure on the Ways and Means Committee in Congress by investigating campaign income of committee members. The organization released a report just prior to an election, which they said contributed to the defeat of a committee member. The manual states, "This is what I call tactical research."

In addition, Mr. Houseman in his memo writes about "targeting training on coalition-building skills." At the same time all these activities were taking place on the agenda for the April 1981 regional directors meeting, under the heading "Survival Issues"—over and over, "survival"—is the subcategory "Intake Policy." That, of course, means taking on the cases. "Intake Policy: Ethical and Professional Responsibilities and the Political Implications of Various Options."

In Ken Smith's notes on the May 12 Office of Field Services meeting, several regional directors report that some of their programs are considering closing intake. Yet, there was an insistence on maintenance of "the four rubies" at the expense of client services. These are the most political activities of the Legal Services Corporation and the ones that should be curtailed first if the LSC can be seen as sincere about serving clients. Could you explain your reasoning behind this decision?

Mr. LYONS. Mr. Chairman, if you have all the documents related to our planning around our views about what constitutes the essential components of the national program, I provided a diagram and a framework and analysis for the new Board of the Corporation appointed by Mr. Reagan. You will find that we view all of the activities you talked about as support activities, support to the basic delivery of legal services to poor people.

They are the key things: Training, which give the quality and confidence to the lawyers; the national support, which provides some legal expertise and ability to research and cocounsel on legal issues; and the State support efforts, which coordinate training around local laws and all of that. All of that makes no sense without the basic delivery system, where the client walks in the door. The lawyer, because he has these support services, will be able to offer a better type of service to the client. So, when you take those levels of analysis in isolation, of course you come up with something like that. But when you take it in its totality, you understand that what we are talking about, that in addition to the basic delivery system, these were the critical components of the delivery system, in terms of support, that we thought should go forward, as opposed to continuing the basic Corporation in Washington at \$20 million as opposed to \$12 million or something like that.

I think there is nothing secret about that, because I provided the same level of analysis to the new board of the Corporation and to the new President of the Corporation when he came in. I would be glad to submit that level of analysis to you for the record.

The CHAIRMAN. Without objection, we will be happy to have you do that.

Mr. SINGSEN. I would like to add one direct response to one small element of what Senator Denton read, and that was the element that had to do with several offices considering closing their doors. This was at a time when it was uncertain how much longer there would be funds for providing services. These were basically offices that had no other source of funds, and their anxiety was whether they would have sufficient funds to continue and complete the professional representation of existing clientele.

Our response to that was an unequivocal, "Don't do it." We felt that was an irresponsible act at that stage in the year, that programs had to continue serving their clients, and that it would be a wrong thing to do—precisely the reasons you are suggesting. What we were trying to do was to maintain a quality provision of service, to insure in the context of what is being called "survival" here that there would be a program in the next year as well, as Dan has spoken to the necessity as officers of the Corporation, pursuant to the policies of the existing Board to try and insure in every way that the Congress concluded that there would be a continuing program. But closing the doors has never been something that we felt was an appropriate action for our programs.

Senator DENTON. In all honesty, looking at what I have seen so far, such as your strategic and tactical research manual, "A Guide for Trainers and Training Responsible Persons," I just wonder how much money was put out proportionately on things like this and the other lobbying that you have said is not good. It includes a statement, "Only lawyers can do good research. Therefore, lawyers need to do research for community organizations." I just do not understand it. It really does not look to me as if you are hitting the mark of helping people. You seem to be lobbying for the sake of a set of ideologies and a method of conducting government.

I will submit, Mr. Chairman, what we have cited for the record, as well as other questions for the witnesses. I must express my appreciation and admiration for the candor, the spirit with which you

answered the questions so far, and I agree with you, there is not enough proof positive here at all. There may be too much, in my own questioning, of innuendo which could be gathered from it. I assure you that I will eliminate from my own conclusions, and the which is left is my contribution to this overall series of hearings. Any doubt to the degree that it can be eliminated. With that, Mr. Chairman, I return to you.

The CHAIRMAN. Thank you, Senator.

I know you have been there for 4 hours. I think I can get through in just a few minutes. I am sorry you have not had a break up to now. Would you prefer a break?

Mr. BRADLEY. No, no.

The CHAIRMAN. I know I have been able to go in and out. I apologize to you, but these are important issues. I know you, Dan, better than I know the other people there. Because you have headed this organization, we have had to chat on a number of occasions about what your feelings are about it. These are really important issues.

If legal services for the poor are going to be viable, then we have to depoliticize it. I think we have to get rid of some of the things that we have heard this morning that you admit we should get rid of. I suspect that it is a lot more widespread than all of the time we have taken this morning. I could have taken a lot more time than I did.

With regard to this morning, I want to clear up one matter I brought out about that April 29, 1981, the Legal Services of Eastern Missouri, Inc., and the Coalition for Sensible and Humane Solutions, which requested funding from the Corporation for the following purposes: One, to publish a handbook for the people's lobbyist; two, to conduct a People's College of Law to give training in community action and legislative and administrative advocacy; three, to research and publish a people's alternative to budget cuts and tax issues; and four, to develop an ongoing bimonthly communication on budget and tax questions and ways to impact.

You did not think that was funded. I might add, to give you an idea of some of the organizations that were part of this Coalition for Sensible and Human Solutions, you can find the Redevelopment Opportunities for Women, Americans for Democratic Action, Neighborhood Resource Center, Lutheran Family and Children's Services, Council of Neighborhood Organizations, the Lawyers Guild, the New Democratic Coalition—you can find a lot of organizations that are certainly outside of legal services.

The reason I bring this up is, I did have our people go back through, and we did find that it was funded. Of course, you did sign one of the approvals. I said you signed the check; you had signed an approval, Mr. Askew. Again, you admitted—and I just want to clarify for the record—you admitted that these were lawful.

Mr. ASKEW. Could I explain, Senator? The initial grant to the Legal Services of Eastern Missouri, who was the recipient of this grant, was for \$8,500; The Corporation had a policy during these years of holding back 25 percent of the final grant award until the project was completed, at which point the final 25-percent payment would be released. What I signed was an authorization form, releasing that 25-percent payment.

What the program may have proposed to do, such as the People's College of Law and the other things you mentioned, in fact were not done with that grant. That grant was used to pay for the development of a manual by the program, involving several segments of the community, which was for the client population served by that program. There was no People's College of Law that we can identify. There was no people's handbook. None of those things that the program may have requested funds to do or proposed to do to us, that grant was not made for those purposes.

The CHAIRMAN. You did not monitor it. You do not know if they used the funds for that purpose or not.

Mr. ASKEW. It was monitored.

The CHAIRMAN. Who monitored it?

Mr. ASKEW. It was monitored by the Chicago regional office, which has responsibility for the State of Missouri, and my signature on the authorization for the release of that final payments means, not only did they operate in compliance with the act but they had completed the project that we gave them the funds to do in the first instance. Therefore, we released the final payment to them because the project was over. These were all one-time grants. They were not continuing obligations of the corporation.

The CHAIRMAN. I understand. The first payment was for \$225, and then your final payment was for \$1,278.

Mr. ASKEW. Right.

The CHAIRMAN. Well, I will certainly take your word on it, but I am just saying that those kinds of proposals really ought to be automatically rejected, summarily rejected. I think basically all of you would agree with me on that. Is that right?

Mr. BRADLEY. Those grants, to put it in perspective, I assume that most of those grants you have been talking about fall under the umbrella of the \$300,000 of the special LINCOS grants that the board approved to enhance client advocacy, client self-help advocacy. You have to understand that in the context that the board made the decision that they were going to have fewer attorneys representing fewer clients, so the clients were going to have to learn how to represent themselves.

The CHAIRMAN. Senator Grassley has to be gone, so I am going to put a number of matters into the record. I will comment, I do not know as much about these as he does; I know a little bit about them. But we will make the record so that the media and others can look at it, and you can answer any of these if you would like. If you can just stay a few more minutes, if you have any comments about any of these, I will be happy to take them for the record.

He mentions that there is a pattern which arises through the mirror corporations models, which is the transfer of taxpayer funds to private law firms for the express purpose, at least in Senator Grassley's feelings, of subverting the will of Congress, with the active encouragement and acquiescence of senior LSC staff in Washington. These materials I am going to put in show, according to Senator Grassley, a pattern which amounts to outright violations of the laws passed by Congress.

To give you an illustration, he has attached here Ken Smith's notes from the project directors meeting in Denver on June 18 through 21 of 1981. One of the items discussed at the meeting was

Orango's three-component model, interested in how to set up unit X to do things which were prohibited by LSC, as we understand it, and he felt that maybe unit X was a model mirror corporation drawn up by LSC headquarters, to avoid the restrictions of the act and, what is more, to create profitmaking firms to fund unlawful activities on the part of Legal Services. These notes will speak for themselves, and feel free to interrupt me if you feel you would like to comment on any of these things.

The second document is a LINCS grant for the Institute of Nonprofit Training, Inc., in Washington, D.C., for which again final payment approval was signed by Mr. Askew. The training effort under this grant included suggestions for the creation of specific structures in NPO's—nonprofit organizations—so that they could maintain compliance with Federal regulations while engaging in certain types of advocacy activities such as lobbying.

The third document I have here is an agenda for an Atlanta regional office staff meeting, which was dated August 24, 1981. Among the items on the agenda, under the heading "Alternative to Retrenchment" is "Establishment of public interest law firm and social welfare offices with less restriction." These topics were to be addressed by representatives of the Pine Tree Legal Service of Maine and Texas Rural Legal Assistance programs.

The fourth document is, as I understand it, a memo prepared by Ken Smith on the first page of which is the following comment: "LSP's and RO's"—meaning legal services programs and regional offices—"seem to be desperate for advice, any advice, on alternative corporations, fee-for-service ideas, et cetera, and certain people are sought after as consultants simply because it becomes known that they have done something."

Senator Grassley points out that it seems to him that this indicates that indeed actions were taken to set up these types of corporations. We know from the previous document that representatives of Texas Rural Legal Systems and Pine Tree Legal Services were among those being sought as consultants.

A page headed "Models" seems to confirm this. "In only one case is the actual reorganization taking place. In the other four cases, these models are in the developmental stage."

The fifth document, further on in Mr. Smith's memo, lists seven models for mirror corporations, apparently developed by LSC senior staff. The first of these is the "modified judicare model" wherein "a private law firm or legal clinic is incorporated as a profitmaking entity, staffed primarily by ex-legal aid staff who were laid off by the legal aid society." Under this model, "any profit generated under LSC contractor through fee-for-service is used to support pro bono work for poor people which cannot be approved by a legal aid society."

Senator Grassley assumes that means activities restricted by the act.

Under "Assumptions" it says, "a series of small contracts under \$5,000 might not require LSC approval." It also says, "The Legal Aid Society has enough surplus funds to make such a contract. These funds can come from a fund balance or can be generated by staff layoffs," and then of course they have a flow chart showing the modified judicare model, which shows mirror corporations, ex-

ing legal aid society, the LSC funds only, serviced indigents, and then private clinic or law firms non-LSC funds only. It is quite an interesting chart.

Senator Grassley also has several additional models, the No New Corporations model, labeled TRLA; The Shell, Central Minnesota; The Sorter, Delaware; The Substitute Grantee, New Haven. So we will add all of these documents into the record at this particular point, without objection.

[Material referred to follows:]

Now, we left it to the board of the local program to decide how best to do that. What many of the programs did in fact do is establish judicare programs and contracts with private law firms to provide representation in the field of bankruptcies, uncontested divorces, and so forth. I not know, since it was after I left, that this is what it is. But that type of arrangement, it is my understanding was duplicated in many programs.

The CHAIRMAN. I have questions concerning the National Legal Aid and Defenders Association. Mr. Bradley, could you estimate for me how much money the Corporation gave to NLADA in 1977 and 1978, in terms of grants? Do you know, approximately?

Mr. BRADLEY. Well, I was not there in 1977 and 1978. Gary, do you recall?

The CHAIRMAN. And also in 1979 and 1980, if you can.

Mr. BRADLEY. I do know this for a fact, Senator, and I just have to get those figures for you, going back to 1960 something, I know that when I was heading Legal Services as Acting Director during the Nixon administration, I made grants, OEO Federal funds, at the time to NLADA. I remember signing a \$700,000 and some grant back in 1967. Through many years, through all five administrations that I have been involved with, the Federal funds have been granted to NLADA for management and technical assistance programs, for evaluation programs, for training programs, for a whole series of activities.

I think that if we examined the record back to 1967, you will see that every year since 1967 we have funded some program activity at NLADA. The exact figures for those dates I just do not have in my mind.

The CHAIRMAN. It may be around \$1 million a year? That is what you are saying?

Mr. BRADLEY. I think some years it has been less than that, and some years it has been more than that. I will get those figures for you, Senator.

The CHAIRMAN. As I understand it, on August 28, 1981—we will call this panel document No. 1—there was a technical assistance grant for \$250,000 to NLADA. Then on September 28, 1981, there was a grant of \$1,235,000 to NLADA. I will insert as panel exhibit No. 1 and panel exhibit No. 2, which was another grant—let me get these straight. In August 28, 1981, there was a grant for \$250,000. There was a grant for another \$300,000 held, as I understand it, for technical assistance. Then there was a grant of \$1,235,000 on September 28, and these are shown in panel exhibits 1, 2, and 3. Then according to a letter submitted to the committee, Mr. Bradley, you had awarded a one-time grant of \$705,000 more to NLADA on December 10, 1981. As I understand it, that was a separate grant from the \$1,250,000 grant in September, was it not, or do you remember?

Mr. BRADLEY. I just do not remember, Senator. I have to go back and look at the records.

The CHAIRMAN. Let me insert that as Document No. 4. [Material referred to follows:]

415
LEGAL SERVICES CORPORATION

MEMORANDUM

TO: Mr. August 28, 1981

FROM: Bucky

SUBJECT: Clint

Technical Assistance and Other Issues

As agreed at the August 26th ABC meeting, you are hereby

authorized to solicit a grant application from the National Legal and Defender Association for the Technical Assistance project.

The funding level for this one-time grant from 1981 fund balances will be \$250,000.

You should also continue discussions with Howard Eisenberg regarding the other projects that we discussed at the August 26th meeting. The Standards Development Project will be transferred to NLADA assuming the necessary arrangements can be made. The Leadership Development Project requires further discussion both with Howard and this group before final decision is made. As you know, Bea has also suggested that the Management Development function should become merged with the Technical Assistance function and transferred to NLADA also. She is responsible for discussing this with her staff and with Howard and meeting with you before a final application is prepared by NLADA.

I would like to convene another ABC meeting on Friday, September 11th in order to make final decisions regarding the Leadership Development Project and the Management Development Project. Please keep us informed in the meantime as to progress and any other developments. Thank you.

cc: Alan
Bea
Gerry
Mario

- 50 name stickers ("Hello, my name is....")
- 15 felt tip markers
- ~~15 large index cards (larger than 3x5; say, 5x8)~~
- 4 rolls masking tape

For supper, need:

50 paper plates
50 plastic cups
50 napkins

Payment mailed to:
Institute for Non-Profit Management Trng.
1244 Maryland Avenue, N.E.
Washington, D.C. 20002
Attention: Calvin C. McCants

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005 (202) 272-4200

PAYMENT APPROVAL FORM

Account Number	Description	Expense
32-53-000560	FULL AND FINAL PAYMENT FOR LINES/CAP PROJECT PER AGREEMENT ATTACHED.	\$450.00
L.I.B. ACCT. 14-1160-000004		
TOTAL:		\$450.00

Signature of Originator: *Robert Crump* Date: *7/2/12* Approved by: *HELETT H. ASKEW* Date: *7-25-12*

Payment mailed to:
Institute for Non-Profit Management Trng.
1244 Maryland Avenue, N.E.
Washington, D.C. 20002
ATTENTION: Calvin C. McCants

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005 (202) 272-4200

PAYMENT APPROVAL FORM

Account Number	Description	Expense
32-53-090560	Initial Payment of 85% for Non-Profit Management: A Manual.	\$2,550.00
TOTAL:		\$2,550.00

Signature of Originator: *Robert Crump* Date: *9/21/81* Approved by: *Beatrice A. Guiton* Date: *7/27/81*

416

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE August 24, 1981

TO: Alan, Bea, Clint, Gerry, Mario and Dan

FROM: HRA

SUBJECT: Technical Assistance and Other Matters

Howard In preparation for the August 26th ABC meeting, I would like to review with you the results of my discussions with Howard regarding NLADA interest in the provision of Technical Assistance in 1982. I also would like to raise with you for your consideration the subject of several other projects that are of interest to NLADA that we possibly could transfer to them for completion.

Howard is very interested in the possibility of the grant for Technical Assistance. We discussed at length NLADA's history with OEO from 71' to 75' as well as technical assistance efforts that NLADA has been engaged in since 1975 in both the civil and defender areas. Howard also reminded me that the NLADA Board and the previous director of NLADA submitted funding applications to the Corporation in 1977 and 1978 for a grant to provide technical assistance to programs in those years. Clint and I had several discussions with Betty Kehrner and Julius Mensah in late 1978 regarding this possibility. For several reasons the decision was made by us to continue the TA activities through the Regional Offices rather than transferring that responsibility to NLADA at that time. However, NLADA has continued its active interest and commitment to the provision of technical assistance to field programs even though it has not received grants from the Corporation or other sources to do so.

Howard and I also discussed several other issues which I agreed to bring back to the ABC committee for further discussion. One of the prime concerns to us, and I am sure to you, will be the manner of accountability of a TA project at NLADA to the field programs and clients of those programs. Howard is quite willing to establish a board of directors for this project that will be broadly representative of the field, the client community, and several other disciplines involved in legal services work. We should be prepared to discuss on Wednesday if such a board would be desirable, and if so how it should be formed.

I also discussed with Howard the issue of a one-time grant from 1981 funds and our hope that we would be able to invest 1982 funds in this effort. He understands the tenuous nature of the '82 appropriation and is quite willing to proceed with a one-time grant at this time. We discussed how these funds would be allocated among regions and to the field and have begun to develop several ideas of linking the Regional Offices to NLADA for the first three months of this project in order to assure that a good working relationship is formed and that the Regional Offices influence how these funds are utilized during the beginning stages of this project. Howard is very comfortable with this notion and is anxious to establish a closer working relationship with the Regional Offices.

In sum, the discussions have been productive and no real problems and envisioned at this time. After I have briefed you on the substance of our discussion, I would request that you authorize me to solicit a formal grant application from NLADA for this project.

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During the discussions with Howard regarding technical assistance, Theron and I discussed with him several of the other projects that are currently the responsibility of OFS. Specifically we reviewed the leadership development project, and the standards development project. As you know, NLADA has also had an historical role in and commitment to the development of civil standards for legal services programs. Howard is very interested in the Civil Division of NLADA becoming formally involved in the standards development work currently being done by John Tull and the civil standards committee that we created almost two years ago. I will be prepared on Wednesday to discuss with you some ideas we have about transferring funds remaining in the OFS budget for the completion of the standards project to the NLADA Civil Division for their management. Most of the work that will be remaining after January 1 will simply be printing up the first draft of the standards, circulating them for comments to the field and other interested parties, receiving comments back, and then ultimately printing, publishing, and distributing the final set of standards. I have spoken with John Tull and he and I are in agreement that NLADA possibly would be in a much better position to continue and finalize the production of standards because of the dramatic demands on John's time and the remaining staff of the Office of Field Services. We will discuss this further on Wednesday.

As you know, since 1979 I have been firmly committed to the idea of a leadership development project in legal services. Late in 1979 I was able to set aside \$300,000 accumulated in one-time funds through slope funding of expansion programs. In early 1980 I wrote a paper describing the need for leadership development in legal services and suggesting a project that could be carried with the limited amount of

funds we had. I have discussed this concept with huge numbers of people including Dan, the ABC committee and the Regional Directors. Because of the dramatic changes that occurred within the Legal Services Corporation and the field in 1980 I decided not to go forward with this project. My decision was mostly driven by the fact that our future was very uncertain and to attempt to address leadership problems without knowing the ultimate outcome of our appropriation battle and literally the very survival of the Corporation would be premature. We are still in a very uncertain situation and I am still determined to hold and protect those funds until we have a better sense of what the future will bring.

Because of NLADA's emerging role as a national leader in the provision of legal services, Howard has expressed interest to me in a role for direct involvement in the leadership development project. I am very interested in this for several reasons:

- 1) I am convinced that this is one of the most important projects that we could do for the long term of development of legal services leaders;
- 2) I am also convinced that we need to receive the advice, guidance, and assistance of a wide range of persons expert in leadership development in other disciplines. While we are awaiting the outcome of Congressional deliberations on our fate, this project should be engaged in interviewing a wide range of people in legal services and in academia regarding the leadership needs in legal services and what can be done to address those needs.

If we decide to proceed with a grant to NLADA for the Technical assistance project, I would be interested in also transferring to NLADA the funds and responsibility for the leadership development project. ~~Obviously~~ a great deal more discussion and thought has to be given to this but I believe for many reasons NLADA would be the appropriate one for this project. Please give this your thought so that we can discuss it and decide how to proceed with this at the August 26 meeting. Thank you for your consideration.



LEGAL SERVICES CORPORATION

733 Fifteenth Street, N.W., Washington, D.C. 20005

Writer's Travel Telephone
(202)

Dan J. Bradley
President

September 28, 1981

C. Lyonel Jones, Chairperson
Board of Directors
Access to Justice Project/National Legal
Aid & Defender Association
1625 K Street, N.W., 8th Floor
Washington, D.C. 20006

Dear Mr. Jones:

I am pleased to inform you that the Legal Services Corporation is awarding the National Legal Aid and Defender Association a grant of \$1,235,000 to be used to provide management and technical assistance, leadership development, the development of standards for civil legal services, and to produce a library manual for legal services programs in accordance with your September 15, 1981 proposal, and the special conditions that are attached to and incorporated by reference in this grant. An explanation of this grant award is attached. This grant is made pursuant to Sections 1006(a)(1)(B) and 1006(a)(3)(B) of the Legal Services Corporation Act, 42 U.S.C. Sections 2996e(a)(1)(B) and 2996e(a)(3)(B), as amended.

This grant is awarded from funds available for expenditure during fiscal year 1981. We anticipate that additional funds may be available during the 1982 fiscal year to continue and expand these activities.

A check in the amount of \$411,667, representing one-third of the total grant award, will be mailed to you shortly under separate cover. Additional payments in that amount and of \$411,666 will be sent to you on November 1 and December 1, 1981, respectively. Deposit and/or expenditure of any funds received under this grant will signify your acceptance of its terms and conditions. If you have any questions, please contact Mulett H. Askeu at (202) 272-4080.

Sincerely,

Dan J. Bradley
Dan J. Bradley

cc: Howard B. Eisenberg, Program Director

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San Francisco, California

San Francisco, California

San Francisco, California

LEGAL SERVICES CORPORATION/OFS

GRANT AWARD EXPLANATION

F/Y 1981

GRANTEE NUMBER: 309042 SIGNED: 09/28/81

GRANTEE NAME: NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

DESCRIPTION: Management and Technical Assistance
Standards For Civil Legal Services
Leadership Development
Librarian Manual

EFFECTIVE DATE: September 28, 1981

TERMINATION DATE: December 31, 1982

AWARD AMOUNT: \$1,235,000.00

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SPECIAL GRANT CONDITIONS

GRANTEE: NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
LSC GRANT NUMBER: 309042

1. The grantee will comply with those provisions of the Legal Services Corporation Act of 1974, as amended, and those rules and regulations, policies, guidelines, instructions and other directives issued thereunder by the Legal Services Corporation that are applicable to grantees under Sections 1006(a)(1)(B) and 1006(a)(3)(B) of the Legal Services Corporation Act
2. The grantee will restrict the use of Corporation funds to activities permitted by organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1954.
3. The grantee will not discriminate on the basis of race, color, religion, sex, age, handicap, or national origin, against (1) any person applying for employment or employed by the grantee with respect to any personnel action proposed or taken concerning the applicant or employee; or (2) any person seeking participation in, or the benefits or proceeds of, the program or programs supported in whole or part by this grant.
4. The grantee will provide for an annual financial audit, as of the close of its fiscal year, by an auditor eligible under the Corporation's Audit and Accounting Guide for Recipients and Auditors. It will submit such audit report to the Corporation within 90 days after the close of its fiscal year, in accordance with

instructions in the Corporation's above-described audit guide. The grantee remains responsible to the Corporation for proper expenditure of, accounting for, and audit of all grant funds, whether or not delegated to other agencies or subgrantees.

5. Grantee agrees to insure that any delegate agency or organization or subgrantee that undertakes responsibility for any part of the approved program will be bound by these conditions.
6. At the conclusion of the grant period, or if the grantee ceases to be a grantee of the Legal Services Corporation after the expiration of this grant, grantee will follow the Corporation's directions with respect to the use or disposition of fund balances, records, and any equipment, supplies, or property purchased with grant funds.
7. If the grantee acquires a copyright in work produced under this grant, it will grant to the Corporation, without fee, a non-exclusive, irrevocable license to duplicate, publish, distribute and use any such copyrighted work product.
8. In the event that the Corporation's Congressional appropriation is not sufficient to enable the Corporation to renew this grant, the Corporation will notify the grantee at least 60 days before the end of the grant term that the Corporation does not intend to renew this grant.
9. Funds made available under this grant shall be allocated to the tasks to be accomplished as follows:

Technical and Management Assistance	\$ 650,000
Leadership Development	500,000
Standards Development	65,000
Library Manual for Legal Services	
Programs	<u>20,000</u>
Total	<u>\$1,235,000</u>

Within 30 days of the date of the grant, the grantee will provide the Corporation with a line item budget, detailed by expenditure, for each task.

10. Any additional terms and conditions pertaining to each task to be accomplished under this grant which the Corporation deems necessary will be included in letters of understanding to be signed by the parties no later than October 30, 1981, which letters shall be incorporated by reference into this grant. The letters shall include, but not necessarily be limited to, the following provisions: recruitment and selection of project staff; role and composition of advisory boards and tenure of board members; content of and deadline for submission of workplans to complete each of the tasks; specific items to be provided for in the budget for each task.

11. Grantee will submit to the Corporation written quarterly reports describing its activities and progress and stating its grant expenditures during the period on each of the tasks covered by this grant.



LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Winner's Direct Telephone
(202) 733-1500

Don J. Bradley
President

December 10, 1981

C. Lionel Jones, Chairperson
Board of Directors
Access to Justice Project/National Legal
Aid & Defender Association
1625 K Street, N.W., 8th Floor
Washington, D.C. 20006

Dear Mr. Jones:

I am pleased to inform you that the Legal Services Corporation is awarding your program a one-time grant of \$705,000 which is available for immediate expenditure.

These funds are awarded on a non-recurring basis and are to be used for the following purposes:

- \$250,000 for technical assistance activities;
- \$300,000 for management development and assistance;
- \$15,000 for standards development; and
- \$140,000 for technical assistance to Corporation programs for training on private bar delivery.

The terms and conditions of your September 28, 1981 grant award are incorporated by reference. Expenditure of funds received under this grant will signify your acceptance of these terms and conditions.

If you have any questions, please contact Hulett H. Askew of the Office of Field Services at 272-4080.

Sincerely,

Don J. Bradley
Dan J. Bradley

cc: Howard B. Eisenberg, Program Director

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LEGAL SERVICES CORPORATION
GRANT AWARD SCHEDULE
F/Y 1982

GRANT NUMBER 309042

SIGNED 12/18/81

GRANTEE NAME NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

DESCRIPTION	ACTION	ANNUALIZED EFF/DATE	TERM/DATE	AWARD AMT
LINE THE AWARDS				
BASIC FIELD	820001			250,000
BASIC FIELD	820001			300,000
BASIC FIELD	820001			15,000
BASIC FIELD	820001			140,000
TOTAL ACTIONS				
THIS AWARD				705,000
BASIC FIELD				705,000
TOTALS				705,000

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Don J. Blodgett
President

Legal Services Corporation
Direct Telephone
(202) 272-4080

March 25, 1982

Howard B. Eisenberg
Executive Director
National Legal Aid & Defender Association
1625 K Street N.W. - Eight Floor
Washington D. C. 20006

Dear Howard:

Thank you for your letter of March 23 regarding the fiscal agreement between NLADA and the Legal Services Corporation. In addition to your letter, Bucky has reported to me on the thorough discussions he and Theron have had with you and Wayne regarding these issues as well as the progress being made on the projects themselves.

As you know I am personally very interested in insuring the success of the projects we funded at NLADA. We believe that the training, development and support of good managers and solid management practices remains a critical need in the legal services program. The projects that LSC has funded at NLADA will be the major, if not the sole, source of national support and assistance in addressing these needs. We have great confidence that NLADA will succeed in meeting this most important challenge.

The overhead rate you have suggested, and the other proposals you made in the letter to me of March 23, are reasonable and are hereby approved. I offer to you any assistance that I or my staff can provide to you as you proceed to accomplish the many important tasks ahead of you.

Thank you for your cooperation.

Sincerely,

Clara J. Felt
Director
Office of Field Services



1625 K STREET, N.W.
EIGHTH FLOOR
WASH. D.C. 20006
(202) 452-0620

HOWARD B. EISENBERG
Executive Director
JULIUS F. MORGAN
Director-Case Services
RICHARD J. WILSON
Director, Defender Division

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MARTIN L. THOMPSON
Providence, RI

MARTIN WIGUT

March 23, 1982

Mr. Clinton Lyons, Director
Office of Field Services
Legal Services Corporation
733 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: NLADA Overhead from
Legal Services Corporation Grants

Dear Clint:

The purpose of this letter is to request final approval of the fiscal agreement between LSC and NLADA regarding overhead costs to NLADA of the recent grants from the Corporation. The specific grants in question are all contained in the NLADA proposal to LSC by my letter to Bucky Askew of September 15, 1981:

- 1) Technical and Management Assistance,
- 2) Leadership Development,
- 3) Standards Development, and
- 4) Library Manual for Legal Services Programs.

There is an additional grant included of \$140,000 for Private Bar Involvement Technical Assistance.

The Association's overhead in grant administration was approximately 45% for the grants held in 1981, and I expect a similar rate for 1982 and 1983. This rate is compatible with both historical actual changes to grants from LEAA (37%) which have been audited and far below overhead costs determined by Peat, Marwick, Mitchell & Co. in 1980 (63%).

NLADA appreciates, however, its responsibility to ensure that as much money as possible be focused on direct field activities. Our commitment to the development of quality legal services imposes on NLADA the obligation to absorb some indirect expenses in grant overhead. On the other hand, NLADA dues are a percentage of program dues and thus as LSC funds are reduced our dues revenue declines. At the same time, the civil legal services community has made increasing demands on our Association for services. For these reasons, we anticipate an inability to support these grants without at least a small percentage of overhead. In this spirit, I propose the following agreement:

- 1) NLADA retain its direct costs arrangement for 1981 as outlined in my letter to Bucky Askew of September 15, 1981;

MEMORANDUM FOR Clinton Lyons
March 23, 1982
Page Two

DATE

TO: LSC

FROM: NLADA

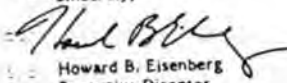
SUBJECT

- 2) NLADA assess only 15% of the grant from the original total award for overhead at the initiation of the grants, payable upon your approval of this agreement;
- 3) All interest earned from each of the grants be used for direct costs of the respective grant;
- 4) The direct costs for 1982 and beyond as enumerative in my letter to Bucky be waived in consideration for this overhead rate;
- 5) No overhead assessment shall be used to support any activity prohibited by the Legal Services Corporation Act or consequent regulations.

If the foregoing provisions are acceptable to the Corporation, I would appreciate written approval from you.

If you wish to discuss the matter further, please contact me.

Sincerely,


Howard B. Eisenberg
Executive Director

HBE/bb

272-4080

March 24, 1982

Wayne M. Pressel
Director, Management Project
National Legal Aid & Defender Association
1625 K Street, N. W. - Eighth Floor
Washington D. C. 20006

Dear Wayne:

Thank you for your letter of March 23 regarding the activities of the Management Project. As you know the grant made to NLADA by the Legal Services Corporation contained several special conditions requiring the submission of line item budgets, workplans, and quarterly reports (see conditions number 9, 10, and 11). In December of 1981, Howard Eisenberg requested and I approved, an extension of time for complying with these conditions because of delays experienced in hiring the director of the Management Project.

The sum and substance of the conditions on your grant emphasize the Corporation's interest in the success of your project. Technical compliance with formal conditions is of course very important, but the Corporation has always done more than simply relate to its grantees in a formalistic compliance context. Clint and I believe that because of our interaction with both you and Howard, because of our attendance at several meetings where the work of the project was discussed, and because of the feedback we have received from various individuals, including many of the Regional Directors, we do have an adequate sense of the progress your project has made and what your plans for the future are. Our oversight responsibilities have been met, both in formal and informal ways.

Therefore, your letter of March 23 serves as formal compliance with special conditions number 9 and 10 of the grant to NLADA dated September 28, 1981. I appreciate your responsiveness and the effort you have made to keep us informed of the project's progress.

Wayne M. Pressel
March 23, 1982
Page Two

I understand that the Advisory Committee will be meeting again on March 26 to provide further guidance to you as to the most pressing needs in the field. I expect that as issues develop and time passes, that some of your priorities may change and the workplan will become more specific. Please keep us apprised of these changes.

Thank you for your cooperation.

Sincerely,

Bullett H. Aske
Deputy Director
Office of Field Services

cc: Howard Eisenberg



1625 K STREET, N.W.
EIGHTH FLOOR
WASHINGTON, D.C. 20006
(202) 452-0620

March 23, 1982

Mr. Hulett H. Askew
Deputy Director
Office of Field Services
Legal Services Corporation
733 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: Technical and Management
Assistance Grant

Dear Bucky:

The purpose of this letter is to clarify the proposed workplan and budget for the Technical and Management Assistance Grant from LSC to NLADA. Although detailed plans for both are constantly evolving, I feel an obligation to secure your approval under the existing contract.

The Management Project has dual responsibilities. First, it is devoted to assisting managers to support and develop staff to deliver high quality legal services through a variety of training systems, resource materials and specialized consultants. The scope of the Project's work, however, extends beyond present managerial needs. The Management Project is actively involved in future organizational development. In times of shrinking financial resources and expanding need, the field programs must seek novel approaches. Pro bono panels of private attorneys, alternative corporate structures, inter-agency information and referral services and the structure use of volunteers are all Management Project commitments which look to the future of legal services in the 1980's. Never have the management challenges to legal services been greater, and never has the need for response been clearer.

The attached Advisory Committee agenda with explanatory memorandum describes in more detail the directions for the Management Project. As the memo indicates, flexibility and responsiveness mandate the amendment of this workplan. The coordinating budget is also attached.

If these plans are satisfactory, please approve them in writing. I will submit more detailed plans for your review and approval after the Advisory Committee has met on March 26, 1982.

Sincerely,

Wayne M. Pressel
Director, Management Project

NLADA MANAGEMENT PROJECT

Budget

INCOME:

1) Basic LSC Grant	\$1,200,000
2) Anticipated Interest Income	<u>100,000</u>
TOTAL INCOME	\$1,300,000

EXPENSES:

1) NLADA Indirect Costs Overhead (2 years)	\$ 180,000
2) Direct Project Costs:	
a) Staff salaries and fringe benefits (2 years)	230,000
b) Staff travel (2 years)	40,000
c) Space rental (2 years)	24,000
d) Telephone (2 years)	15,000
e) Supplies (2 years)	5,000
f) Advisory Committee travel (2 years)	8,000
3) Direct Contract Services (2 years)	<u>798,000</u>
TOTAL EXPENSES	\$1,300,000

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The CHAIRMAN. Then in 1982, you, Mr. Lyons, approved a technical assistance grant to NLADA for \$1.3 million on March 25, 1982. Do you remember that grant? Is that a separate grant as well?

Mr. LYONS. I believe so, Senator.

The CHAIRMAN. Those will be grants 5 and 6.

Mr. LYONS. It does not say how much it is on here.

The CHAIRMAN. The only thing I am getting to is, it looks to me there was approved over \$3.2 million in grants to NLADA during this period of time. From what little we know about it—and it is tough for us to get all the documents—it seems like that was quite a jump in grants for NLADA during that period of time, less than a year.

Mr. LYONS. I think, Senator, again we will have to supplement the record. But I think you will find that all of those grants are logical and consistent with the thrust of the Corporation to localize training and other activities.

The CHAIRMAN. That very well may be. All I am bringing out is that you, Mr. Lyons, and you, Mr. Askew, joined NLADA in March—well, you joined the organization in December 1982, and Mr. Askew in March 1983.

Mr. LYONS. That is simply untrue, Senator.

The CHAIRMAN. You are not with NLADA?

Mr. LYONS. I am the executive director of the National Legal Aid & Defenders Association. I was hired on June 7, 1983, and pursuant to a process of selection that I will be happy to—

The CHAIRMAN. I have no problems with that. What are you paid in that position?

Mr. LYONS. I beg your pardon?

The CHAIRMAN. What are you paid in that position at the National Legal Aid—

Mr. LYONS. I am paid \$57,000 a year.

The CHAIRMAN. That is about the same as you were paid in the Federal Government?

Mr. LYONS. That is right.

The CHAIRMAN. I guess during those years you were probably paid a little bit less than that.

Mr. LYONS. I am sorry?

The CHAIRMAN. During the years that you worked for the Legal Services Corporation, you were probably paid a little bit less than that. I think you jumped the scale last year. Was that about the same—

Mr. LYONS. I was paid—as Acting President, that was about the same. As Acting Vice President, I was paid a little less than that. As Director of Field Services—

The CHAIRMAN. Mr. Askew, what is your job with NLADA?

Mr. ASKEW. I am not employed at NLADA.

The CHAIRMAN. Who are you with now?

Mr. ASKEW. I am unemployed.

The CHAIRMAN. Did you serve as a consultant for NLADA during this period?

Mr. ASKEW. No, sir. I have received no compensation from NLADA for any purpose.

The CHAIRMAN. I just wanted to clarify that and get that out of the way. Let me just say this to you. I apologize for keeping you so

long. I could have kept you a lot longer, by the way. I, again, want to express my gratitude to you for the candor that you have expressed before this committee. I think we have made some headway here, and maybe some way or another we can resolve the problems that exist with regard to legal services to the poor.

My personal feeling is that if we can depoliticize legal services, if we can get them out of the field of lobbying and political work, and get them oriented toward utilizing the scarce funds that really do exist—and \$320 million is hardly scarce, but still it is not enough to do the work for the poor in this country, and we all understand that. I can become a very strong supporter of this program. I do support legal services for the poor.

But I am worried tremendously when I see all the things that we have discussed. We have, I think, just scratched the tip of the iceberg, all the things that we have brought out this morning, which you all admit are, if not illegal, at least improper.

We have had people tell us that there are documents that are not there any more, that we have not even begun to scratch the surface. Of course, we do not have the investigators to do that. All we want to do is bring this out and, we are hopeful, come up with a way of solving the problem.

My personal way of resolving it would be to get the Federal Government out of it and let the State and local bar associations handle it. They probably would use many of the same grantees, but I bet there would be a lot more auditing and a lot more effort put into resolve, at least these issues that we have raised here today. I would be willing to go and find more funds for the poor. It is awfully hard for many of my colleagues to support this, and I think it will be hard for them to support this unless we are assured that these problems can be resolved once and for all. Like you say, it may take tremendous statutory draftsmanship on our part to be able to resolve them.

I am willing to work on that with my colleagues. I know that Senator Eagleton is very sincerely in favor of the National Legal Services Corporation. I have been both in favor and against it, based on what I have heard through the intervening last 7 years. But again, I just want to thank you for your candor. I want to thank you for being here. I know it has been a long ordeal for you, but I think you have been helpful. Probably, in the end, if the Legal Services Corporation continues to survive, you will have played a noble role in keeping it surviving because of the honesty that you have expressed here today. It has not been easy. I know in your case, Mr. Bradley, how dedicated you are to Legal Services Corporation. I know that you do not want to find any fault with it, if you can avoid it. But you have been willing to admit that there are faults, and we are hopeful we can find a way of solving those faults and going on and giving real legal services to the poor.

Thank you so much. I apologize, again, for the length of this particular session.

Mr. BRADLEY. Thank you, Senator.

Mr. LYONS. Thank you, Senator.

The CHAIRMAN. We still have a long way to go here today. Our second panel will focus on allegations that Legal Services staff attorneys have been engaged in various political and union organiz-

Hon. Orrin Hatch
August 11, 1983
Page Eight

CONCLUSION

I have responded above to those allegations made by the Committee which touched upon my role as the Director of the Office of Field Services and later as Acting President of the Legal Services Corporation. I trust that others on the panel will respond to those charges which likewise touched them. You may be certain that I will remain available to the Committee and am willing to be of assistance in any way that I can. You may be equally certain, however, that I will be so only upon your assurance that it will be subject to the usual and customary standards of fair inquiry that have distinguished the United States Senate.

Sincerely yours,



Clinton Lyons
Attorney at Law

CL/soh

Attachments (12)

(NOTE: In the interest of economy, the attachments (12) accompanying Mr. Lyons' statement were retained in the files of the committee where they may be researched upon request.

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HULETT H. ASKEW
5812 Baltimore Ave., N.W.
Bethesda, MD 20816

APPENDIX VI

RECEIVED AUG 31 1983

August 11, 1983

The Honorable Orrin Hatch, Chairman
Committee on Labor and Human Resources
428 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

On July 12, 1983, I testified before your Committee as part of oversight hearings on the Legal Services Corporation. The panel I was on, with Dan Bradley, Clint Lyons and Gerry Singen, was asked many questions about our management and administration of the Corporation, especially during 1981. Several questions were asked to which we were not able to provide complete answers, and we promised to provide fuller answers or additional documentation for the record.

My letter will address four areas of inquiry that were either directed to me or about which I have some personal knowledge. I understand that the other members of the panel will be providing you with information on other issues. The four areas I will address are:

1. Law in Neighborhoods and Communities (LINC's) Grants (and specifically a grant to Legal Services of Eastern Missouri);
2. Purchase of office space by recipients of Corporation funds;
3. My notes of Regional Director meetings held in 1981 as they relate to "survival"; and
4. Grants made by the Corporation to the National Legal Aid and Defender Association (NLADA).

LAW IN NEIGHBORHOOD AND COMMUNITIES (LINC's) GRANTS

Before I address the questions about a grant made to Legal Services of Eastern Missouri in 1981, I feel it would be helpful to the Committee if I provided a general overview of the LINC's grant category. In 1980 the Board of the Legal Services Corporation decided that LSC should be doing more in the area of client self-help and advocacy. Accordingly the Board set aside approximately \$300,000 in the 1981 LSC budget for the LINC's Project, which was to consist of four components:

1. A survey of successful client/community self-help advocacy efforts;
2. A solicitation of proposals and funding of projects that would provide replicable self-help models and materials;
3. The production of "training of trainers" events; and
4. The provision of technical assistance to recipients on self-help projects.

The first component of this project, the survey, resulted in several hundred legal services programs and community groups filling out a survey form (LINC's/CAP Survey) and submitting it to the Corporation so that the respondent would be included in a self-help directory to be produced by the Corporation. Apparently the current staff of the Corporation has misinterpreted those survey forms to be grant documents. Based upon this misinterpretation, the Committee questioned my panel about LINC's grants made to thirteen different organizations. Based upon inquiries I have made since the hearing, it is my understanding that nine of the organizations cited in the hearing never received a LINC's grant from LSC and seven of those organizations never received any funds at all from LSC for any purpose.

I frankly am at a loss to explain why the Corporation staff would have misled you and your staff when LSC has complete grant records in its Comptroller's Office and should have had no difficulty in determining to whom grants were made and for what purposes. Our difficulty in responding to questions is now obvious—most of these "grants" in fact were never made and most of the organizations mentioned were never grantees of LSC funds. In addition, the memorandum from Bea Moulton (Director of the Office of Program Support) to Rhonda Roberson of June 8, 1981 makes it absolutely clear that Corporation management was determined to make grants only for lawful activities and only with proper documentation of the grant purposes. (Attachment #1 is a set of memos more fully describing the LINC's Project).

The second component of the LINC's Project was the solicitation of proposals and the funding of projects that would produce replicable models and materials. LSC ultimately funded thirty-eight projects for a total of \$291,026. One of those grants, to Legal Services of Eastern Missouri (LSEM), was the subject of much discussion at the hearing, and I have some additional information which may help the Committee understand the nature of that grant award. Copies of the Corporation's grant documents for the LINC's Project disclose that a grant in the amount of \$8,500 was made on July 21, 1981 to LSEM (a long-time LSC grantee) for purposes of preparing a self-help legislative manual; conducting a series of training workshops in self-help advocacy; and distribution of a series of informational materials. (Attachment #2 is LSEM's Grant Award Conditions and Evaluation Requirements - Form I-A.) The grant activities were carried out by LSEM through services contracts with the St. Louis Neighborhood Resource Center and with Ms. Patricia Martin, a professional consultant (see Attachment #3). Mr. Richard Teitleman, Executive Director of LSEM, confirmed that those activities were undertaken in his response to Congressman Sensenbrenner of June 22, 1983, a letter to which I referred during the hearing and upon which I relied when answering Committee questions about this grant (Attachment #4).

I have reviewed my notes of the hearing and believe that the answers I gave regarding this grant were accurate and complete, especially given the limited information I had at the time. The only mistake I made was when I stated that the Chicago Regional Office of LSC monitored this particular grant. I have since recalled that the Regional Offices were not charged with the responsibility of monitoring the LINC's grants—that function was performed by the Office of Program Support staff in Washington. Because a staff person in Chicago had approved one of the attached contracts related to this grant, I believed that the Regional Office had a more active role in this grant than it did indeed have. However, I believe all other responses I gave at the hearing were correct.

In discussing the LINC's grant with Mr. Teitleman subsequent to the hearing, I learned that LSC did award at least one other training grant to LSEM in 1981. The grant was for "Community Based Training" which was separate and distinct from the LINC's grant. As

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part of the Corporation's decision to decentralize training in order to make it more effective and efficient, each LSC region was allotted training funds to be allocated by the LSC Regional Training Coordinator working with a Committee on Regional Training (CORT). LSC Regional Training Coordinator working with a Committee on Regional Training (CORT). Community based training was one of the categories of training required in each region by the training division of LSC. Basically, this training was intended to promote and develop the self-help and pro se capacity of clients to permit them to represent themselves. Usually the events that were sponsored and run locally focused on community economic development, community legal education, and legislative or administrative advocacy. The training was also designed and delivered locally.

As Deputy Director of the Office of Field Services, I had little involvement with the training division of LSC, and thus, I have very little first-hand knowledge of these grants. I also was not aware of this grant when I testified, and it was not the subject of inquiry at the hearing. I was, however, concerned that confusion existed within the Committee. I, therefore, tracked down this information on my own (something I think the LSC staff might have done before providing you with inaccurate information). In addition, I have asked the Director of LSEM to send me a description of the 1981 community-based training sponsored by LSEM so that I may supply that description to the Committee. This, of course, in no way will change the information or answers I have supplied on the LINC's grant.

PURCHASE OF OFFICE SPACE BY RECIPIENTS OF CORPORATION FUNDS

Several times during the hearing, concerns were expressed about the purchase of real estate for use as office space by legal services programs. As a Regional Director of LSC from 1976 to 1978, I was responsible for applying the policies and procedures of LSC regarding such purchases. As Deputy Director of the Office of Field Services in 1979, I participated in a review and updating of the LSC policy. From these two perspectives, I will attempt to explain to the Committee how and why the Corporation permitted its grantees to purchase office space.

The Economic Opportunity Act of 1964 prohibited OEO grantees from purchasing real estate with Federal funds. Therefore, when LSC was transferred responsibility for the OEO-funded legal services programs in 1976, none of those programs owned office buildings purchased with Federal funds. The Legal Services Corporation Act, however, did not prohibit using LSC funds for this purpose.

During 1976, many, many programs requested LSC approval to purchase office space. The Regional Directors of LSC, who are responsible for monitoring compliance by programs with the Act and Regulations, recommended that real estate purchases be allowed and the Comptroller of LSC supported this view. In November of 1976, the Director of the Office of Field Services issued a statement to the Regional Directors instructing them that real estate purchases would be permitted after certain procedural requirements were met. This format is still utilized today, although it was supplemented and clarified by the Office of Field Services in 1979. (Attachment #5 is a copy of these two policy statements.)

The Regional Directors of LSC have been delegated responsibility to approve or disapprove office space purchases. The 1976 memo lists ten factors that the Regional Office must review and consider before approving a purchase (source of funds; comparison to rental cost; cash reserve for maintenance; demonstration of fair market value; etc.). The 1979 memo clarified several of the reporting and procedural requirements and attached examples of thoughtful analyses or reports submitted by programs in support of their request for LSC

approval of a purchase (expenses per square foot per year; vacancy and rent loss; financing; anticipated appreciation; and comparison of rental versus purchase). In every case where LSC has approved the purchase of office space, the recipient is required under the 1979 policy to obtain LSC approval before sale, transfer or encumbrance of the property. A resolution from the local board of directors authorizing the sale is required and a memorandum on state law describing how LSC may retain control over subsequent transfers is also required.

The Corporation through its Regional Offices has provided very thorough oversight of office space purchases. The final decision on approval/disapproval usually is a strict fiscal and business judgment made by the board of the local program and approved by LSC. As far as we are aware, not a single local program nor LSC has suffered any financial losses as a result of a real estate purchase. It was our belief that permitting programs to purchase real estate for use as office space is legitimate and good public policy as long as the procedural and substantive requirements are clear and closely monitored. We believe that has been, and continues to be, the case.

In the course of the hearing, Senator Denton specifically asked about a building purchase by the New Orleans Legal Services Program. I was with the Corporation until March of 1983, and I know that when I left that purchase had not been approved by the Regional Director in Atlanta because the program had not met the requirements of the 1979 policy statement. I do not know if LSC approved the purchase subsequent to March of this year.

Senator Denton also seemed to suggest that legal services programs with large fund balances purchased buildings as a way of "stashing away" or hiding funds, and that LSC encouraged or at least permitted this practice. When the 1976 and 1979 policy statements are read, it will be clear that LSC certainly did not discourage building purchases. Many LSC staff and local program board members and staff believed that building purchases, when thoughtfully and carefully done, could be a very effective and efficient utilization of funds, whether they be carry-over or regular operating funds. In my seven years with LSC I can think of no fiscal issue that received closer review and scrutiny by Regional Office staff than office space purchases. I simply do not believe that any Corporation staff or field program staff conspired to "stash away" LSC funds in buildings or anything else; but if that had ever been anyone's intent, I am absolutely sure that the private attorneys who comprise 60% of the local board of directors never would have permitted such a practice. That is not to say that LSC did not encourage local programs to use fund balances for real estate purchases—we did. It is not to say that building purchases were not approved by local boards and by the Corporation with fund balances—they were. It is to say, however, that each and every one of these purchases was carefully scrutinized and documented both locally and regionally; and if the program could not meet the procedural and fiscal requirements (such as the case in New Orleans) then the purchase was not approved.

Attachment #6 is a response to an allegation made by the Conservative Caucus about the purchase of a \$1 million building by a legal services program, an allegation which is totally untrue. I am attaching this because I believe it was alluded to in the hearing, and also because I feel it is a compelling example of why permitting building purchases is good public policy. I am heartened to see that the new Corporation management has not reversed this policy or changed the procedural requirements.

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NOTES OF REGIONAL DIRECTOR MEETINGS HELD IN 1981

When I left the Corporation in March of this year, I left several boxes of personal affects and belongings in the care of LSC. I was to remove those items later at a time mutually convenient to both the Corporation and myself. However, when I sought to retrieve them, I was repeatedly put off with excuses that the materials would be released to me in the very near future. The first notice I received of their ultimate disposition was when Senator Denton, during the course of the hearing, read from handwritten personal notes of mine which were among the items in those boxes. Evidently the boxes, in my absence and without my leave, have been opened and searched by current LSC staff and others. I am very disappointed that this Committee would countenance that invasion of my privacy and derogation of my rights in order to question me as it did. There were other means to obtain access to my private property with full and appropriate safeguards that will protect the interests of all parties.

Be that as it may, the notes at issue were taken by me at Regional Director meetings during the course of 1981. Some background on the nature of those meetings and the environment in which we operated in 1981 will be helpful in placing into context some of the words or phrases from those notes that concern Senator Denton. Clint Lyons and I, during 1978, 1979 and 1980, established a practice of regularly meeting with our Regional Directors to discuss issues of current importance and to give the Regional Directors the opportunity to raise emerging policy issues or any concerns they might have. We encouraged open and frank discussions, and the meetings came to be very important steps in the decision-making process that we employed. Usually they were held every two months, and on occasion also included the Deputy Regional Directors.

Going into 1981, Clint and I decided that monthly meetings were necessary because of the very real need to keep in close communication with the Regional Directors. The notes from which Senator Denton quoted were apparently from the January, February and April, 1981 Regional Director meetings. My memory of my notes of those meetings are that they consisted of a combination of my own thoughts, the statements of others, notes to myself as reminders, and other miscellaneous items. They are not minutes of the meeting or official records of the Corporation. They certainly were not intended to be, nor should they be characterized as, policy statements of LSC or my Division. As a matter of fact, most frequently the notes represented brainstorming or issue identification which ultimately might lead to the adoption of LSC policy, which of course, is contained in official records. I would argue that our performance and policies should be reviewed and questioned closely, not from a set of random notes and thoughts that most often did not represent LSC policy or practice but from the public record.

Senator Denton seemed most concerned about the use of the word "survival" and the implication that it evidenced prohibited or illegal activity. Since these are my notes and I did often use that word, I will describe for you what I meant by that term and what I believe the Regional Directors understood it to mean. First, a brief review of the context in which this term came to be used.

In late 1980 and during 1981 the Corporation was confronted with several very dramatic problems. The new Reagan Administration recommended to Congress that all funding for LSC be eliminated from the 1982 budget. For the first time in nearly a decade, the very survival of civil legal representation for poor people was in jeopardy and the disposition of over one million pending cases was thrown into immediate uncertainty. Second, the Administration's effort to cut social programs and to eliminate important procedural rights

for persons affected by those cuts was certain to create enormous increases in the numbers of persons appearing at the door of every legal services program in the country. Third, changes were proposed in the laws and administrative regulations surrounding important public benefit programs, threatening to overturn the legal framework in which legal services lawyers work. At the same time, bills were introduced in Congress placing restrictions on the activities legal services lawyers could perform and on the categories of persons they could represent.

Therefore, the Legal Services Corporation and its grantees were faced with the possibility of severe budget cuts (if not total elimination) and potential restrictions on representation at the same time that caseloads were increasing and growing in complexity because of new governmental policies and regulations. This obviously raised very serious issues for every legal services program and every legal services staff person—issues that encompassed financial considerations, programmatic policy and direction, and ethical responsibilities to clients.

This threat created, within the legal services community as a whole, a climate of intense uncertainty—a problem that continued throughout the ebb and flow of discussions in Congress throughout 1981. The uncertainty was not relieved until November of 1981 when a Continuing Resolution set the FY 1982 appropriation at \$241 million, a 25% cut from the FY 1981 level. The Corporation then had to move immediately to reduce all grants, which resulted in reductions in staff and services in literally every legal services program in the country.

The survival of the legal services program and the Legal Services Corporation was an issue discussed actively and openly by all segments of the legal services community and private bar groups during 1981. The term "survival," from the perspective of the LSC Board and staff, meant the survival into the future of high quality, effective and economical legal services for poor people. The talk of "values" speaks to the values incorporated by Congress into the Legal Services Corporation Act of 1974 (42 USC 2996) in Section 1001:

1. To provide equal access to the system of justice;
2. To provide high quality legal assistance to the poor and to continue the vital legal services program;
3. To improve opportunities for low income people;
4. To reaffirm faith in our government of laws;
5. To keep the program free from political interference; and
6. To assure that attorneys have full freedom to protect the best interests of their clients.

These "values" are what the Board and staff had the responsibility and duty to protect. In my terms, the survival effort, therefore, was not an ideological campaign and certainly was not a partisan political campaign. It was an effort, however, to explain and defend an ideal and a piece of legislation that incorporated a crucial part of this nation's commitment to equal justice.

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Was the survival of the Legal Services Corporation, as an institution, necessary to preserve the "values" enunciated in the Legal Services Corporation Act? Possibly not, but it was the considered judgment of most people connected directly or indirectly with legal services, including the American Bar Association, that the Corporation is the best and most appropriate vehicle for implementing the principles in the Act. After all, the Act speaks not only to quality, but to effectiveness and economy. In five years of operation, the Corporation has adequately demonstrated to legal services providers, to the organized bar, and to the Congress that it has been an effective, efficient and well-managed organization. Therefore, "survival" came to mean the survival of LSC as an organization as well as the survival of high quality, effective and efficient legal services. To many people and institutions, the Corporation and its survival came to symbolize the values and principles in the Act.

The Legal Services Corporation Act, as interpreted by LSC in 1980 and 1981, permitted the Corporation and staff to lobby for the continuation of LSC. There continues today to be confusion about what was permissible then and what is permissible now. Suffice it to say, however, that LSC's organization of, or participation in, an effort to save the Corporation from destruction was not in and of itself a violation of the Act and Regulations. Indeed, it can be argued that the Corporation had an affirmative duty under the Act to advocate for its own continuation, and the failure to do so would have been a breach of managerial and statutory responsibility by the Board and staff of LSC.

During the entire period that is under review, the staff of LSC was extremely conscious of the provisions of the Act regarding legislative advocacy. A concerted effort was made by senior staff, especially the President and General Counsel, to provide accurate guidance and advice to staff as to the limits of acceptable activity. Obviously, under the circumstances, this was a matter of utmost importance and the Corporation staff believes that it responded appropriately and accurately to the situation with which it was confronted. Simply stated, I feel that throughout this period the Corporation did all that could be reasonably expected to vigorously enforce the Act and Regulations as interpreted at that time. In my opinion, the survival campaign, in concept and in execution, was not in violation of the Act or any other provision of law.

During the threat, the Corporation was regularly presented with new questions regarding interpretations of law or policy. Part of the survival effort at LSC was the absolute priority of providing fast and accurate information and interpretation to LSC staff and recipients. Many, many very serious fiscal, ethical and programmatic issues were raised for legitimate reasons during this period; and the Corporation, while facing its own retrenchment, responded very professionally and very thoughtfully to these concerns and issues. In retrospect, the responses were accurate and appropriate and clearly not in violation of any restrictions.

What you see in my notes from the Regional Director meetings is one person's view of that process. Issue identification, brainstorming, the need for policy development, taking stock of morale, and open discussion of the threat to this program that we were all feeling are what those notes represent. I encourage the Committee to look beyond the notes to the Corporation's or my Division's policy statements and applications to determine the reality of how the staff of LSC performed during this very difficult period. Specifically, I call your attention to a memo from Clint Lyons to the Regional Directors dated October 21, 1981 from which I quote:

During this period it is especially important for Regional Office staff to be in close touch with all field programs. Our customary dual approach of program accountability and program development must affirmatively come into play during these transitional times. We must assist programs both substantively and in terms of process, to effect changes which will ensure the continued delivery of high quality services in the most effective and economical manner. At the same, we must be vigilant to ensure compliance with the statutory, regulatory, ethical and public policy requirements which govern the operations of our programs. In both respects it is necessary that we intervene to the degree necessary to curtail and redirect activities which run counter to the best interests of clients or which run afoul of our legal and policy constraints.

In this vein, we will tolerate no departure from rigorous oversight and enforcement of the provisions of those constraints. Notwithstanding the persistent claims of our political opponents, this national program has been highly disciplined in this regard and we can permit no slippage from that standard now. The highly controversial nature of our basic statutory mandate itself and the work which flows from it does enough to fuel the attacks upon the Corporation and its field programs. We can brook no relaxation of our traditional oversight role and, in fact, given the ferment related to retrenchment and redesign we must heighten our attention to and sharpen our focus upon that responsibility.

Within those absolute limits, we must further monitor these activities to ensure that the choices made are consistent with the basic purposes declared in the Act. To that end we should actively encourage program creativity and innovation which hold promise of the continued delivery of high quality services in the most effective and efficient manner despite budget cuts and the pressures of other critical external forces.

We must not lose sight, however, of the fact that decision-making with respect to program design and delivery systems continues to reside at the local level with the Board of Directors of each program together with the clients, staff workers, and management which make up the whole program community. Any process which is undertaken toward retrenchment and redesign goals should meaningfully involve each of those groups and be attentive to the special needs of each.

That, Mr. Chairman, was the policy of the Legal Services Corporation, and is indicative of the instructions we gave to our Regional Directors, not some words and phrases taken from various people's handwritten notes. I can only assume that the current Corporation staff has not supplied you with a copy of this policy memorandum so I am attaching a copy of it for the record (Attachment #7).

GRANTS MADE BY THE LEGAL SERVICES CORPORATION TO THE NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

At the end of the hearing, you asked several questions to Mr. Lyons and myself about grants LSC made to NLADA in 1981 and our current relationship to NLADA. On the issue of the grants, Dan Bradley was accurate in his review of the history of the funding of NLADA by OEO, CSA and LSC. Suffice it to say there was a historical grant relationship between the

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federal legal services entity and NLADA. During the course of 1981 discussions between the Board and staff of LSC led to the Board approving a 1982 operating budget for the Corporation which included grants to NLADA for several discrete projects. Those grants are as follows:

- 1) Management Project - to provide management training and technical assistance to LSC grantees:
FY 1981 - \$250,000 - 8/28/81
FY 1981 - \$630,000 - 9/28/81
FY 1982 - \$330,000 - 12/10/81
FY 1982 - \$5,000 - 12/21/81
TOTAL \$1,450,000
2. Library Manual - originally to write a manual on creating and operating a law library in an LSC field program - amended to be used for management clearinghouse activities (writing and publishing materials):
FY 1981 - \$20,000 - 9/28/81
3. Private Bar Training and Technical Assistance - to provide training and technical assistance to implement the Private Bar Involvement Instruction:
FY 1982 - \$140,000 - 12/10/81
4. Leadership Development - to provide training and Technical Assistance to develop leadership skills in legal services workers:
FY 1981 - \$300,000 - 9/28/81
5. Standards Development - to complete and publish Standards for Providers of Civil Legal Services to the Poor, a description of legal services functions and commentary on what those functions should accomplish:
FY 1981 - \$65,000 - 9/28/81
FY 1982 - \$15,000 - 12/10/81
TOTAL \$80,000

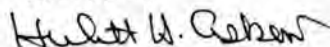
The total amount of funding was \$2,195,000. There was some confusion during the hearing about the amounts and purposes of these grants, and I hope this clarifies the record. Also, you asked if this was the total of the grants awarded to NLADA during 1982. As far as I am aware, no additional grants were awarded to NLADA subsequent to January 1, 1982. You asked Mr. Lyons if he approved a grant to NLADA on March 28, 1982 of \$1,300,000, and that a total of \$3.2 million in grants were given to NLADA. Mr. Lyons signed no grants to NLADA in 1982, and the \$3.2 million figure is incorrect. Apparently the Corporation staff has once again misread its own grant documents, and I suggest that official grant documents in LSC's Comptroller's Office will bear me out on this. Once again, we do not have access to those documents and were not aware that we would be questioned about them at the hearing.

The second issue raised was my employment status at NLADA. Apparently you had been told that Mr. Lyons joined the staff of NLADA in December of 1982, and that I have been employed at NLADA since March of 1983. I do not understand the implication inherent in this, but nevertheless, both "allegations" are absolutely untrue. Mr. Lyons was employed as Executive Director of NLADA on June 7, 1983, by its Board of Directors after an extensive search process. I am not an employee of NLADA, and I have received no fees from it. I regret that someone misled you on this matter, and I am grateful that I have had an opportunity to set the record straight.

That, Mr. Chairman, concludes my response for the record. As I did at the hearing, I have been as open, candid and forthcoming as I can possibly be under the circumstances. I cannot, however, let this opportunity pass without expressing my deep disappointment at how this entire matter has been handled. As you may know, I was given very short (four days) notice of this hearing, and I agreed to appear voluntarily. I met with the majority staff of the Committee once to discuss my testimony and telephoned the day before the hearing to seek out further information about the subject of the hearing and what I should be prepared to discuss. I was never told that the Corporation had provided the Committee staff with my handwritten notes and that I would be questioned about words and phrases in those notes without being shown a copy of them. I have since learned that staff of the Committee knew of these notes and had access to them several weeks before the hearing, and yet that fact was not disclosed to me even though there were several opportunities to do so. If seeking accurate and complete responses and explanations from me was the goal, I respectfully submit that a better and fairer process was available to accomplish that. Now, I find that my credibility and integrity are being called into question through the provision of selective information to the press, and I find it very difficult not to resent the way this has happened.

At the conclusion of the hearing, you praised our panel for its openness and candor. I greatly appreciated that when you said it, and I felt it was deserved then and is deserved now. I hope this written response will convince you that your comments were justified and will substantively add to the record of the hearings. Thank you for the opportunity to provide this statement.

Very truly yours,



Hulett H. Askew
Attorney at Law

HHA/aoh

Encs.

(NOTE: In the interest of economy, the attachments (7) accompanying Mr. Askew's statement were retained in the files of the committee where they may be researched upon request.)

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APPENDIX VII

46 Lawndale St.
Belmont, MA 02178
August 11, 1983

The Honorable Orrin Hatch, Chairman
Committee on Labor and Human Resources
428 Dirksen Office Building
Washington, D.C. 20510

Re: Oversight Hearing on the Legal
Services Corporation, July 12, 1983

Dear Senator Hatch:

This letter is to extend and supplement my statements made during the recent oversight hearing at which I appeared regarding the Legal Services Corporation. I was the Vice President for Finance and Management of the Legal Services Corporation from November 1979 until July 1982.

In the course of the hearing, a number of matters were raised in a manner suggesting illegal, improper or unethical conduct on the part of myself and my colleagues during our period of stewardship at the Legal Services Corporation. I do not believe that the materials produced at the hearing were either a proper or sufficient basis for such charges. Instead, the record itself, our extended and supplemental statements and the documentation we have produced convincingly demonstrate that we obeyed the law, followed the direction of the Corporation's appointed and Senate-confirmed Board of Directors, and properly carried out our statutory duties throughout our terms in office.

Nevertheless, during the hearing we were subjected to many harsh words and unfounded accusations. Directly after the hearing, you and two of your Republican colleagues chose

OVERSIGHT OF THE LEGAL SERVICES CORPORATION, 1983

FRIDAY, JULY 15, 1983

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to recess, at 9:40 a.m., in room 428-A, Dirksen Senate Office Building, Senator Orrin Hatch (chairman) presiding.

Present: Senators Hatch, Denton, and Grassley.

OPENING STATEMENT OF SENATOR HATCH

The CHAIRMAN. Good morning. We are waiting for Senator Denton who will be chairing this particular session with regard to Legal Services, as I have to go to the White House shortly. However, I don't think he will mind if I start off so that I can make my statement, which I think will be a fairly tough statement this morning, especially after the testimony we received this last week.

Before beginning, again I would like to thank my colleague, Senator Denton, for his tireless help and cooperation with these hearings. Trying to sift through all of the documents and to make sense of what is happening and what was happening at the Corporation has not been an easy task, and we all owe him our gratitude for his willingness to pursue these issues to their resolution.

When I first came to the Senate, I supported the Legal Services Corporation, in large part because of my knowledge about the program in Utah where I think it works fairly well, but I think most Federal programs are run fairly well in our State whether we like them or not. Since then, however, I have begun to learn how the Corporation is being used improperly; how legal services for the poor are sometimes sacrificed to protect political activities popular with local legal services attorneys.

The hearings held by this committee in May and this week are the first to document in detail the way in which the program is being abused. Alan Houseman, Director of the Legal Services Corporation's Research Institute, repeatedly violated the spirit and the letter of the Legal Services Corporation Act. The committee staff found document after document which demonstrated that Mr. Houseman was attempting to coordinate a program for keeping the Corporation intact and, I quote, "with committed aggressive and political staff."

He also used his position to engineer the creation of an outside lobbying organization despite specific statutory commands prohibit-

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Hearing Before the Committee
on Labor and Human Resources, U.S. Senate

July 15, 1983

Excerpts Involving Testimony/Documents
Valuable to Hulett H. Askew

ing such action. His own boss, Mr. Dan Bradley, told the committee that Mr. Houseman's activities were improper, yet no action was taken against him other than a verbal rebuke.

Mr. Houseman's indiscretions were not the only example of misconduct. When J. Kenneth Smith, the Director of Regional Operations, received written submissions from a grantee indicating he was spending his grant on political activities, he did not stop the grantee. He simply told the man to reword his submissions—do whatever you want, I suppose, but reword your submission so it looks good.

We also learned that one Corporation grantee, the Center for Law and Education, has sought to block the State of Florida from instituting a program which requires its high school students to be literate before they can receive a diploma. An official from the center claimed that the suit enabled 10,000 students to receive a high school degree even though they failed the State's functional literacy test, and now the center wants to go back to court and sue for over \$500,000 in legal fees.

Witnesses on Tuesday told the committee that what we found were isolated incidents of bad judgment; that the vast majority of legal services programs are run in a legal manner. I tend to disagree. I think the committee has just scratched the surface. Unfortunately, we may never know because the Corporation has no adequate data on the activities of its grantees, and apparently after the election of 1980, orders were given to destroy sensitive files.

Now let me address one issue in particular, because there are many that we have raised and there are many more that could be raised. I am talking about the use of programs for political purposes. In material revealed on Tuesday, it was learned that Bea Moulton, the former Director of the Office of Program Services, offered the following advice to a consultant:

These grants are in a very sensitive area, will be subject at some point, I believe, to considerable scrutiny. * * * We need to discuss the other grants you propose to make. They all call for worthwhile, very important activity, but as described on your forms, it may be the very kind of activity Congress has specifically prohibited us from funding. Maybe they can be turned into training proposals.

In another memorandum from Ms. Moulton which the committee received just yesterday she states:

I have indicated before my interest in developing some timely packages around legislative and administrative advocacy strategies to deal with the Reagan budget and block grants to the States. It seems we could play an important role in assisting them by helping to develop strategies to deal with budget reductions at the State and local level.

One cannot help but read these memorandums and conclude that the training grants were being used as a ruse to cover Federal funding of political activity. For example, in 1981 Legal Services of Eastern Missouri requested on behalf of the Coalition for Sensible and Human Solutions, funding: one, to publish a handbook for the "People's Lobbyists"; two, to conduct, as a followup to our current CBI's, a People's college of law to continue training of community activists in both substantive issues and the processes of community education and action, legislative and administrative advocacy, as well as their relations to litigation; three, to research and to publish a "People's Alternative" to budget cuts and tax issues on a

State and local level; and, four, to develop an ongoing bimonthly communication on a statewide basis to focus on budget and tax questions and ways to impact them.

Accompanying the request were materials which made clear that the coalition's founding purpose was purely political: To oppose all Reagan budget cuts and to oppose all block grants. Moreover, the purpose of one of its committees—entitled "Immediate Battles"—was described as organizing major events and actions such as letterwriting campaigns and demonstrations.

When asked about this grant request this last week, three former Corporation officials—Dan Bradley, Clint Lyons, and Hulett Askew—stated that they were not familiar with the request or the coalition. Later at the hearing, when they were shown copies of payment approval forms for the grant, Mr. Askew stated that the grant had only been funded to cover permitted activities and that the coalition did not receive funding for the improper activities listed in its proposal.

The committee has subsequently learned that the Corporation did, in fact, fund the Coalition for Sensible and Human Solutions to conduct training programs designed to: One, educate and inform community activists about current Federal, State, and local budget-cutting activities; and, two, share and develop strategies for fighting back.

Materials distributed at these programs were political in nature, uniformly critical of the Reagan administration legislative proposals, and they encouraged lobbying. In a narrative summary of one of the training sessions, the following observations are made. This is from the summary of the training session itself:

The focus of the morning session was action. Khateeb Waheed from St. Louis gave a "call to action" inspiring everyone. * * * When we broke for lunch, which was delicious, people were "fired up." Building on this energy, Linda Holtzman facilitated a group discussion where it quickly became evident to everyone they wanted to form a local anti-cutbacks coalition, now the Southeast Missouri Coalition for Sensible and Humane Solutions. The participants then broke down into small groups to plan their first course of action and to divide up tasks.

Well, that quote was from the Corporation's own records. This is in direct refutation, I should say, of what the three people who sat here and told us this last week. I might mention that in the most righteous way they told the press outside how ridiculous these hearings were. "Ridiculous" my foot. The purpose behind this training was to form groups to lobby against the administration's budget cuts.

It is clear the training program was a success. To pretend now that this program was designed to inform eligible clients of their rights is simply inaccurate, and I might add that all of this information was contained in documents accompanying a letter requesting that the coalition be paid for the services it performed, and it was paid.

The point here is that the instances of illegal activity uncovered by the committee may be more the rule than the exception. Whether intentional or not, the portrayal by Mr. Bradley, Mr. Lyons, and Mr. Askew of the Corporation's handling of the grant request from the Coalition for Sensible and Humane Solutions was far different from the facts contained in Corporation documents.

One can only wonder what else the Corporation was funding, and in fact the Corporation itself does not know. It does not even have a complete list of its own grantees and subgrantees. That is how poorly it has been run.

I might add that I don't know whether they deliberately lied in front of this committee this week—and I choose to hope that isn't the case—but I can tell you this: They didn't know what they were talking about in the least. Moreover, they should have had the facts before they tried to smooth it over and make it look like the Corporation was just acting in a very ethical and decent way, as they did on occasion after occasion after occasion this week.

You just have to ask, what was this Corporation funding? What was it really doing? I think this has to be investigated by people who are professionals. I think it is time to stop the politicizing of taxpayers' moneys in favor of one ideology or another. All I can say is that I am darn mad about it. I think that the people who sat here last week have some explaining to do, and I am hoping that Federal officials will look into it because I don't think glib answers and constantly saying, "Well, we know the moneys went for the right things," are sufficient answers.

If we want to provide legal services to the poor, it seems to me we should not be jeopardizing such provision with a variety of schemes to finance political propaganda. This committee has an obligation to determine whether the Corporation can be an effective, neutral provider. If not, then it is our obligation to find a better alternative, one which can provide legal services in a manner divorced from politics and staff manipulation.

At this point I would like to insert several documents into the record. I apologize to Senator Denton, but I have to be at the White House and I had to get this into the record before I left. I will cite with particularity "The Law and Direct Citizen Action," funded by the Legal Services Corporation, to my knowledge. This is page 1, "Introduction":

It takes power to achieve significant social change. People get power by organizing. Social change organizations provide a power base from which people can take systematic collective action on their own behalf. The strategies and tactics of such organizations may vary, but whether they engage in electoral politics or direct action, community education or militant disruption, consumer boycotts or picket lines, their ultimate strength lies in their ability to mobilize and empower large numbers of people.

Let me just quote from the third paragraph of the introduction:

A victory won through direct action by 50 members is more meaningful in the long run than a triumph achieved by a single leader or a lawyer making a phone call.

It bothers you a little bit, doesn't it, Mr. Bogard, to hear this stuff?

Mr. BOGARD. Yes, sir.

The CHAIRMAN. Let me hit the second page of this introduction, where it says:

As a result, many lawyers are oriented toward solving specific problems by using the legal system to win individual cases, instead of helping people solve their own problems by direct action, but there are other lawyers who believe in the basic principles of organizing to achieve social change. They want to work with community organizations, and want to know what kinds of assistance they can provide and how best to provide it. This handbook is intended to help them, and to help community

organization leaders and members as well by helping them understand the limitations the law imposes, the opportunities it provides, and the reasons behind the advice their lawyer is giving.

Now I don't know about you, but this bothers me an awful lot, that the taxpayers of this country who have a wide variety of ideological beliefs have to fund one particular liberal set of ideological beliefs and fund the lawyers who are suing to enforce those and implement those. That bothers me a lot.

I think the criticisms of the Legal Services Corporation are valid. I think it is pathetic. I am not going to take more of Senator Denton's time or more of Mr. Bogard's time, but I will put the rest of these matters into the record.

What I am upset about is that we had four glib people here this last week who I thought were honest, and I thought admitted that there were illegalities and certainly improprieties. I think in front of the media they tried to say: "Well, those were exceptions that could happen in any administration." I suspect that my words this last week are true, that we have just begun to scratch the tip of the iceberg and yet what we have scratched are very, very serious things.

Let me just say this: I cannot begin to tell my committee and the public at large how much Senator Denton means to me on this committee, for the work that he has done in going through these documents and working so hard to try to uncover these matters. It is an awful job, and it takes a lot of time, especially when you really cannot find the documents anymore. I just have inestimable respect for him, and I want everybody to know it. I appreciate him chairing these hearings, and I apologize for leaving at this time but I have to go down to the White House.

I might add that this document, "The Law and Direct Citizen Action," was distributed by the Legal Services Corporation, its advocacy training and development unit. This is a training manual. When you read that introduction, I think you can't help but be pretty irritated that taxpayer funds are being used for something like this.

Now I was interested in what the four had to say. They referred to what we found as regurgitated crap, called the investigators scalawags in this matter. I think that they were giving us crap, if you want to know, and I think it is pathetic. I am not going to call them liars here but I want to know whether they are liars or not. I know that what they said was untrue. Whether they deliberately knew it was untrue or not I don't know, but it was untrue, at least in this one particular. I appreciated the candor in some other particulars.

I think that something has to be done about it. I am going to cooperate with Senator Denton and anybody else who is interested in finding where these taxpayer moneys are going, for what they are going, and whether they are being used even today for political purposes, in order to get to the bottom of this. Again, I want to evidence my respect for Senator Denton, who I think also has a number of important things to say about what has gone on in these hearings and what is going on at the Legal Services Corporation.

However, I am pretty irritated that four people would sit here and call our investigators scalawags when they brought up this

kind of information right out of the Corporation's files, and call this regurgitated crap when it shows that there was deliberate political manipulation of groups with taxpayers' moneys for liberal purposes in this society and for partisan purposes.

I think it is wrong, and I will tell you something: I don't know anybody who could read this stuff and not think it was wrong. If there are any scalawags involved, then I think they come from the Legal Services Corporation under prior leadership, and I just hope that the present leadership doesn't have any such problems. We are going to continue to look into this.

With that, Senator Denton, forgive me for starting early because I have to go to the White House. I appreciate your courtesy in letting me go ahead.

[The following material was supplied for the record:]

May 1981

COALITION FOR SENSIBLE AND HUMANE SOLUTIONS

SUMMARY OF COALITION PURPOSE AND ACTIVITIES

Purpose

The Coalition for Sensible and Humane Solutions formed in February 1981 in direct response to President Reagan's budget message to the country. Over 50 organizations and close to 500 individuals have joined together to fight the budget cuts in programs that meet human needs. Members of the Coalition recognize that together we are much stronger and that as a coalition we can avoid destructive competition with each other.

The Coalition has adopted two basic positions:

- 1) We will oppose all federal, state, and local budget cuts in programs that meet human needs.
- 2) We will oppose the transfer of funds to the states; the so-called "block grants" which endanger the rights and resources of women, minorities, and the poor.

Activities to Date

- 500 Coalition members attended Congressman Richard Gephardt's St. Louis Budget Hearings
- 150 low income people attended a People's Forum providing testimony to representatives of Senators John Danforth and Thomas Eagleton
- The Coalition has sponsored mass letter-writing campaigns to Congressmen and Senators
- The Coalition distributes solid, up-to-date information about the proposed cuts and opposition strategies
- Members of the Coalition met to discuss opposition to the cuts with Senator Danforth
- 200 Coalition members participated in a rally and march in downtown St. Louis to protest the cuts
- 300 Coalition members visited the State Capitol for a rally and informational visits to oppose Block Grants.
- The Coalition completed and released a major impact study that shows that the City of St. Louis will lose a minimum of \$79.4 million as a result of federal cuts.

Ongoing Coalition Work

The Coalition meets every two weeks for the purposes of:

- exchanging information
- building membership
- planning future activities and strategies

Frank discussion about issues surrounding the cuts is encouraged at these meetings.

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Another piece of the overall client advocacy effort, in my mind, is a better use of the funds now set aside for community based training in the regional plans. I have indicated before my interest in developing some timely packages around legislative and administrative advocacy strategies to deal with the Reagan budget and block grants to the states. My feeling is that if good written materials, video tapes, and other training materials were available, they could and would be easily worked into existing plans. Undoubtedly many of the recipients of these funds are already planning to deal with such issues, but it seems we could play an important role in assisting them by pulling together information on the cuts and helping to develop strategies to deal with budget reductions at the state and local level. As others have pointed out, we are one of the few agencies in a position to act as a kind of broker between those with competing claims for reduced resources, and it may be that we can help head off some very destructive infighting among poor people and others who benefit from the social programs that will be cut. I think we might be able to build on some of the work that the Center for Law and Economic Development has done or is planning to do in the next few months, and I think we might also work with the networks of community organizations which are already working with the national support centers. I'm not sure what form this collaboration might take and whether it really is possible to come up with a viable strategy that will strengthen rather than weaken collective efforts at the local level. But I think it is important to try.

To conclude, it seems to me that we may have only 3 - 4 months to attempt one last time to approach client advocacy on a systematic basis and do what we can to make it a part of service delivery and change strategies in every local program. I don't know why it is so difficult to get broad-based efforts going in this area, but my experience ultimately tells me that it is. I think ATDU's institutional technical assistance grants (which Gerry has pulled back at this point for a separate decision by Dan) could be of some help, particularly since they contemplate independent sources of information and advice over the next year or more. The NCC could have been a kind of back-up center for client advocacy efforts, but it is too late to realize that potential now. I guess what I need most is your thinking on how to get some of the things I've outlined about done — if not your assistance in doing them.

BAM:mb s

Senator DENTON. Well, Mr. Chairman, we have worked on many things together. I want to express again my admiration, and express it publicly, for your courage, your thoroughness, your leadership. It is a great honor to serve on the same committee with you.

The CHAIRMAN. Well, thank you, Senator Denton. I know that what you have to say is very important and I know that this hearing is very important, so I will leave and go to the White House and you continue.

OPENING STATEMENT OF SENATOR DENTON

Senator DENTON (acting chairman). Good morning, ladies and gentlemen. I want to welcome Mr. Bogard, the President of the Legal Services Corporation, who is to be our sole witness. I am happy to see that he brought with him Mr. Charles Ritter, Vice President for Finance; Dennis Daugherty, Vice President for Operations; and Gregg Hartley, the Director of Office of Field Services. I know that Mr. Bogard will feel free to permit or solicit the testimony of those three, since he recently took over the Corporation.

This is the fourth in a series of hearings on the Legal Services Corporation, which happens to fall under my jurisdiction as the chairman of the Subcommittee on Family and Human Services. I want to express ad lib some of the indignation, some of the shock which Senator Hatch must have vented this morning.

For 2½ years I have heard almost tearful statements and red-faced condemnation of the heartless attitude of the Reagan administration respecting the Legal Services Corporation, heart-rending statements about the denial of legal services to the poor, which those of us who serve and respect that administration's trust in this matter have no disagreement about. We want to see legal services given to the poor, but what we don't want to see, is in the name of legal services to the poor, such publications being printed at taxpayer expense and then training and action taking place at taxpayer expense.

Senator Hatch, the chairman, took brief note of this book which is published by the Legal Services Corporation, the advocacy training and development unit of the Legal Services Corporation. Just let me quote a few sentences from it to give you an idea of the sea of hypocrisy that exists between the task of providing legal services to the poor, to the needy, and that which is really going on in too many cases within the Legal Services Corporation.

The introduction starts like this, and I will quote it: "It takes power to achieve significant social change." Now what in hell does significant social change have to do with providing services to the poor, the needy who cannot afford it?

"People get power by organizing. Social change organizations provide a power base from which people can take systematic collective action on their own behalf," and it goes on into how you do this, "by engaging in electoral politics or direct action, community education or militant disruption, consumer boycotts or picket lines." That is legal services to the poor?

Tuesday's hearing revealed details about some very disturbing activities undertaken both within the Corporation headquarters here in Washington and in the various field programs funded by

the Corporation. I agree with Senator Hatch's statement that what was revealed Tuesday may have been only the tip of the iceberg. Some of my colleagues who have been exposed to what they read in the paper—and only one came to the hearing the other day—I think are embarrassed, those who have been propounding that it was heartless to criticize the Legal Services Corporation and try to provide the services by some other instrument.

Although committee staff studied hundreds of documents and presented the committee with many examples of congressional appropriations funding unlawful activities, I believe there is much more than needs further substantiating and possibly much more that remains to be uncovered. However, the committee simply does not have the resources at this time to do the extensive investigation required.

I consider this investigation in context with other malfeasance that may have been going on within our bureaucracy increasingly in the past 15 or 20 years which our President is trying to wrench out of our system, to save people money and to bring compassion to bear upon the people of this Nation.

In view of the importance of the required investigation I am, therefore, today asking the General Accounting Office to investigate the activities of the Corporation, including whether Corporation officials orchestrated a survival effort that diverted large sums of money away from service delivery to lobbying activities designed to preserve a political Legal Services Corporation, and whether some of these activities were prohibited by statute.

I shall also ask the GAO to ascertain if these activities were going on at a time when Corporation officials were alleging that reductions in funding to the Corporation could result only in reducing direct services, legal services to clients. I shall also request that the GAO look into whether staff layoffs at the Corporation were based on political considerations rather than on the basis of experience or ability. I recall ideology being one of the reasons for choosing to fire this or that individual.

I shall also ask the GAO to investigate whether LSC officials encouraged the accumulation of unexpended fund balances and then, when the balances were discovered, encouraged grantees to hide these balances for use in a more favorable political environment—that is, after the Reagan administration passed from office—by making capital acquisitions to stash it in that manner, in the meantime at the sacrifice of legal services to the poor.

Further, I shall ask the GAO to determine if Corporation grantees used Legal Services Corporation funds to set up "mirror" corporations to avoid restrictions placed on grantees themselves, or to generate profits for use by the grantees.

Finally, I shall ask the GAO if it believes the Corporation abided by the May 11, 1981, letter sent to the Comptroller General in which Mr. Dan Bradley, President of the Legal Services Corporation at that time, stated that the Corporation and its grantees would abide by the Comptroller General's May 1981 opinion on lobbying.

I gather from the chairman's attitude and remarks that he will support me in this request for the GAO investigation.

The four former LSC officials who appeared on Tuesday vigorously denied that many of those activities took place. I am not in a position to resolve their denial versus that which was indicated. I am confident that a GAO investigation will resolve the matter.

While we continue to look into the past activities of the Corporation, we must also consider its future. As many of you may know, Chairman Hatch has promised Senator Eagleton that his—Senator Eagleton's—bill to reauthorize appropriations for the Legal Services Corporation for 3 years will be considered by this Labor and Human Resources Committee before the end of this month.

Therefore, the committee must now consider what legislative changes are needed to prevent the recurrence of abuses or at least alleviate those abuses, abuses of the sort revealed on Tuesday. I am certain that as the law currently reads, Mr. Bogard has few tools at his disposal to effect substantive changes and to eliminate many of the blatantly political activities undertaken by the corporation and its grantees during the past several years.

Because of legislative restrictions, he currently has very little control over funding decisions and grantees have very little incentive to abide by Corporation directives. I have been hearing that since before I came to the Congress and after I came here, repeatedly: You can make the rules, but they don't pay any attention to the rules.

I do not believe that the Eagleton bill, as currently drafted, provides the necessary means for cleaning up the Corporation. In fact, on Tuesday, Mr. Dan Bradley, former President of the Legal Services Corporation, seemed to admit that drafting legislation that would prevent abuses from occurring would be a difficult task indeed. I agree.

Although I have expressed my pessimism about the possibility of depoliticizing the Corporation, and I have opposed funding for it in favor of other means to truly give legal services to the poor, a majority of my colleagues, particularly on this committee, support its continuation or have supported it. In light of the revelations of Tuesday's hearings, perhaps the proponents of the Legal Services Corporation will agree that there needs to be an overhaul in the way legal services are delivered to the poor.

Given the commitment made by Chairman Hatch, the committee needs to look at the current law governing the LSC and to be prepared to make substantive changes. This is respecting the Eagleton bill in particular. One would have to conclude that the current President of the LSC, Mr. Don Bogard, is in the best position to make suggestions about changes. We look forward to his statement and to his responses to our questions.

Mr. Bogard, do you have an opening statement which you would care to submit?

Mr. BOGARD. Yes, sir, and with your permission I would like to read it. It is a short statement.

Senator DENTON. Certainly, sir.

Mr. BOGARD. Thank you.

authority to deny re-funding need not be exercised often to have a wholesome effect on the sense of accountability of all recipients.

I want to express my appreciation for the time and attention you have been willing to devote to Legal Services Corporation. Members of your staff have spent a great deal of time in our office in preparation for these hearings. I can promise you that we will continue to cooperate fully with you. I know that the documents your staff uncovered raise controversial issues but I want to state as strongly as I can that the charges made against Legal Services do not in any way diminish my belief in the need for a strong, independent legal services program.

When this program does what it was set up to do—the delivery of legal assistance to low-income individuals—it has public support. It is only when the resources of the program are diverted from the legal assistance and used for political purposes that the program suffers and, more importantly, that the poor people we are supposed to serve suffer.

Thank you, Mr. Chairman. I would be glad to respond to any questions you might have.

Senator DENTON. Thank you, Mr. Bogard. I think you have touched on the core of the problem and pointed the way to solve it. I just hope that you are able to control it and it not able to control you.

I want to make it clear that I am not against social change. I realize the United States is proceeding toward and not ever having reached the realization of all men having been created equal, in terms of the intent of the Declaration of Independence which set down a belief and an ideal, an ideal to be reached in behavior. I simply cannot believe in, condone, or permit as a Senator the use of funds legislatively appropriated for legal services to the poor, being used by a group with a particular ideology to promote that ideology and to organize the lobbying and other activities in the disdainful manner which they did in spite of the regulations.

Mr. Bogard, it seems to me the central fact in this debate is that it is very difficult to get information about exactly what the Legal Services Corporation and its grantees are doing. Some people apparently were upset on Tuesday when I quoted from meeting notes and internal memorandums about Corporation activities. I don't like to have my staff pour through files to gain information about what was really going on during a period of time, but it was obvious that much of the published information was of little use to the committee.

Would you agree, Mr. Bogard, that there is a serious shortage of hard information about grantee activities? Have you had an opportunity to study any of the materials presented at Tuesday's hearing, and were any of the staff members with you today aware of "survival" activities undertaken by the Corporation during 1981 or 1982?

Mr. BOGARD. Senator, there is a great deal of material but I am not sure how much of it we have in Corporation files here in Washington. We have gone through a significant number of documents, as has your staff. There are a lot of problems that have been shown and a lot more that need to be inquired into.

There are people on my staff who are aware of these survival tactics. In fact, Mr. Hartley, who is on my left, was a program director in Missouri for about 6 years, and I am sure he could speak of his knowledge of those tactics.

Senator DENTON. Would you please do so, Mr. Hartley?

Mr. HARTLEY. Yes, sir, as a project director from 1978 through early 1983, I was aware of many of the activities that were being promoted by various recipients of LSC funds as well as members of the staff of the Legal Services Corporation itself.

As a matter of fact, in late 1980 the Corporation set up a series of regional project directors meetings across the country. Invited to those meetings were also members of client counsel and other interested groups. In attendance at the one I attended in St. Louis that year were the leaders of the Corporation at that time—Clint Lyons, Bucky Askew, regional staff—as well as a number of consultants and most of the project directors.

The purpose of the meeting, the published purpose of the meeting, was to begin addressing what was the apparent position of the Reagan administration to not support the Legal Services Corporation, and to begin building a network by which we could stay informed of those activities and actions that might have a detrimental effect upon programs.

It wasn't very long into the meeting that we discovered that the purpose of that meeting and actions to take place afterwards were much more than that; that it was to build extensive networks and coalitions, not only to keep us informed and to keep our people informed but to actually build a coordinated response against those actions, against changes in the Corporation, and to begin preparing to lobby against any changes that might occur.

There were a number of people like myself who did not believe that what was taking place there was appropriate. At one point in the meeting I was asked by a member of the Corporation to serve as one of two statewide coordinators in that coalition-building. After they received information that I was probably not the most supportive of their intentions, I was not contacted further. As a matter of fact, as the year went by and the coalition and networks were built, a good number of people who were not supportive of the activities were basically isolated from those activities by not having the information shared.

However, as a project director I had a number of friends who were project directors or staff attorneys in other programs, and subsequently was informed of those activities through that sort of a grapevine. Indeed, I continued to see evidence of the network and of the lobbying activities, the retrenchment activities, into 1981 and 1982 as many of the materials were mass-mailed by the Corporation, its consultants, its national support centers, and by contractors. The more sensitive information, of course, was funneled only to those people that were insiders in the network.

Other types of evidence of the activities were demonstrated also. As a matter of fact, in late 1981 a resident of Springfield, Mo.—which is my hometown—who was an employee of the community services agency, contacted me and told me that she was active in a statewide coalition to fight block grants and Reaganomics. She informed me that legal aid of Western Missouri had provided them a

grant to lobby against those activities, and had requested that my legal aid program do the same. Of course, I informed them that we had no intention of doing it.

Even up through 1983 there were people whom I had contact with that were clients or representatives of clients that participated in these statewide activities, that reported not only the direct expenditure of funds by legal aid programs but also that they were being trained by the staff of these programs and helped by staff of these programs in their lobbying activities. In addition, the one grant that was discussed earlier this week, not only was I intimately aware of the activities but, basically, through the Missouri network I heard about the activities of that grant, and even have a copy in my library in Springfield of the "Peoples Manual for Lobbying in Missouri."

Senator DENTON. May I interject a question? Could you restate for the record whether Mr. Lyons and Mr. Askew were at the meeting to which you referred?

Mr. HARTLEY. To the best of my recollection, both of those people were in attendance.

Senator DENTON. Thank you. Go ahead.

Mr. HARTLEY. That is about all I have, sir.

Senator DENTON. Oh, I'm sorry. I thought I had interrupted you. Thank you. That was certainly enlightening.

What type of lobbying were Mr. Lyons and Mr. Askew advocating, or what type of lobbying was being advocated in their presence with their apparent approval?

Mr. HARTLEY. At that particular point in time, at that particular meeting in St. Louis, which was held downtown in the Holiday Inn, I believe, they were talking primarily about building a network where we could be informed and we could build a large base of support to lobby our local Congressmen and Senators, and to try to impact heavily on their support for the upcoming authorization and appropriation. However, in the smaller group discussions during the day there was a lot of talk about all the different types of lobbying that would be needed to keep the Legal Services Corporation alive and the survival process intact.

Senator DENTON. Do you have knowledge as to whether or not Mr. Lyons and Mr. Askew were at those small meetings advocating those particular policies, or do you have information that they would have known that those policies were being advocated?

Mr. HARTLEY. I did not attend any of those small sessions where either of those two gentlemen were directly involved, but they were around the entire time. As a matter of fact, it was sort of a closed meeting. There was a great deal of concern about keeping the press out of the meeting. There was worry that the meeting might be infiltrated by people from the more conservative critics of the program, including Howie Phillips' organizations. There was a great deal of security and worry about people attending, so I am sure they were around.

I had lunch with a person who was in the Government affairs section of the Corporation, who specifically addressed some of the political concerns and lobbying activities of the Corporation.

Senator DENTON. Are you familiar with any of the statements made in response to questions delivered by me yesterday and Sena-

tor Hatch yesterday to Mr. Lyons and Mr. Askew, or on Tuesday, rather?

Mr. HARTLEY. I am familiar with them, sir.

Senator DENTON. Do you regard their statements denying the existence of these survival activities to be an accurate representation of what was going on?

Mr. HARTLEY. Everyone that was employed at the Corporation or by a recipient of LSC funds knew exactly what was going on in 1980, 1981, and 1982. It was blatant. The amount of materials that came across your desk was astounding. The conversations that were held at meetings were blatant. Everyone knew exactly what was going on. For years the programs have known that funds were used for purposes which were not directly approved by Members of Congress; that funds and grants appropriated by the then current administration of the Corporation were highly selective, and given to people who responded to their particular philosophy.

Senator DENTON. In that milieu of activity, would you say there was action that would accurately be considered as violating the law?

Mr. HARTLEY. To me it is clear. I don't see how anyone could read those materials and draw any other conclusion, sir.

Senator DENTON. You used the word "blatant" and I used the word "shock" regarding what I read yesterday and some of the things that I have learned from material given to me by my staff last evening, and I think the word "blatant" is appropriate.

Indeed, Mr. Bogard, one of the most disturbing revelations from these hearings is the utter contempt with which some local grantees regard Congress and the Corporation and the regulations within which they were to operate; therefore, my pessimism regarding your ability to corral the Corporation into what would constitute legal activities.

I understand you recently had to defund one grantee which simply refused to give you information you requested, information that the law required them to submit. Senator Hatch, the chairman of this committee, sent a letter to you on April 26, 1983, asking basic questions about Corporation activities and structure. One of these questions was simply a request for a list of all the Corporation's grantees.

Let me read you part of one reply which you received in response to your request to the grantees for the data requested by Senator Hatch. This particular response was written by William J. James, director of the Upper Peninsula Legal Services. He says:

This program, for one, does not for a minute buy the propaganda contained in the first five paragraphs of the subject letter, but does recognize the unvarnished threat of the last paragraph.

Now let me read you a portion of the letter sent by the Corporation, specifically the last paragraph to which he refers and calls an unvarnished threat. That paragraph reads as follows:

We will appreciate your timely response to the inquiries. We realize how burdensome this request is, but simply remind each program that in receipt of grant funds from the corporation, each program assures that it will, upon request, cooperate with all data collection and evaluation activities undertaken by the corporation. Please respond to the areas of inquiry in the order presented, and as appropriate, in as concise a manner as possible.

That is an unvarnished threat, according to the gentleman to whom the request was directed. Do some grantees, like the one run by Mr. James, feel it is improper for Congress to fulfill its obligation to the American public by keeping abreast of how the Government is spending the taxpayers' money?

Mr. BOGARD. There were a large number of responses similar to that one, Senator. Most people felt that we were intruding greatly into their own controlled area that we had no right to inquire into. We have had a number of such letters, and those could be made available to your staff so that you could see the type of responses that we got.

It is clear that these corporations are independent. They are controlled by local boards. They feel that all we do is give them funding, and we have no further control over them from that point on.

You mentioned the defunding that went forward this year. Under our requirements, we monitor a program every 18 months for compliance with the act and the regulations, send a team out to visit and evaluate the manner in which they are complying with the law and the regulations.

Well, this particular recipient refused to allow us to perform that function that we are authorized to do, and went to court, sued us to keep us from doing that. It took 3 years before the Corporation did anything to institute the defunding procedure. It was ongoing when I became president. October is when it started. I came on in December. We continued the proceeding, have defunded the organization, and are moving on to providing services with another recipient in the area.

However, we are faced with the situation where a defunding procedure generally takes about a year, and it costs in the neighborhood of \$100,000 for us to be able to do that. All that time that we are doing it, the program continues to receive full funding so they can carry on their activities. Then after we made a determination that defunding should happen, we fund them to scale down their procedures and to allow the program to finish with those cases that it is operating with, and then bring on a new recipient at the same time.

I think it is absolutely critical that we streamline that procedure, that you give us the authority to defund much more quickly. We should not be required to have a "full, timely, and fair hearing." Those are the words in the statute. We should be allowed to have a complete hearing and afford due process to those people, but there is no reason that it has to take a year to transpire and cost \$100,000 of the taxpayers' money.

I can see why the administration went to the length of wishing to simply eliminate the Legal Services Corporation because of the jungle of obstacles in the way of its reform by regulation and statute, but if this thing is cleaned up enough maybe they will adopt a positive policy, if it improves by what is done through your presidency and the new statute which we may be able to produce from this committee and pass on the floor.

However, I doubt that there are going to be many Senators that are exposed to what I have been exposed to in these last two hearings. I doubt that there is going to be that much elevation of knowledge or that much desire to be elevated, and I find that to be

true in all too many areas even more important than that of the Legal Services Corporation issue. Therefore, I don't know with how much optimism to view your chances.

In the letter to you from Senator Hatch dated April 26, 1983 was a request for a case-by-case listing of all class action suits filed by grantees in 1980, 1981, and 1982. The listing was to include an accounting of the hours spent on such cases, the percentage of each grantee's total work time that these hours represented, and fee awards won in conjunction with these cases. Several aspects of the Corporation's response to this request trouble me deeply.

First, some of the most prominent grantees and some of those against which the most serious allegations have been leveled failed to respond at all. Among those who failed to respond: the Greater Orlando Legal Services; Neighborhood Legal Services Association of Pittsburgh; and Community Legal Services, Inc. of Philadelphia. What steps has the Corporation taken to obtain responses from these and other grantees who have so far failed to comply with the request—that is, if you are familiar with the state of play with respect to responses being obtained.

Mr. BOGARD. Yes, sir, I am. We attempted to get the responses for Senator Hatch and this committee. At the time that we responded in early June, we still had not heard from a number of programs. However, a significant amount of material has come in. It was compiled through Mr. Hartley in the field services area, and in fact we have a publication available for your staff now.

It is rather interesting that in a program that spends little time on class action lawsuits—I believe I have been told that something like two-tenths of 1 percent of all of our cases are class action cases—this booklet right here totally involves class actions filed by our recipients. There is nothing else in here but class action lawsuits listed five and six per page. There must be 150 pages here. It details the amount of attorney time involved, on an estimated basis.

In a quick review last night we came up with a figure of over a half a million hours of attorney time already expended in 1980, 1981, and 1982, and that is just on open cases. That doesn't include the closed cases. I suspect the time is double or triple that, and that a considerable amount of attorney time is being involved in a few class action lawsuits. We will be submitting this to your committee today.

Senator DENTON. Thank you, sir.

Many of the replies the committee did receive were incomplete or were presented in such a way as to obscure and render useless the data. For example, in responding to the question concerning the percentage of total hours consumed by class actions, Legal Action of Wisconsin, Inc. stated that it had performed 100 percent of the work in all the various class action suits it had filed. By this and other artful interpretations of the questions, as well as simple failures to respond, many of the grantees have avoided giving accurate and worthwhile answers. Will those artful interpretations be addressed by you in order to try to overcome them, and if so, what will those measures be?

Mr. BOGARD. I think it's essential that we try to keep a better handle on what the programs are doing, require maintenance of

hours on a time basis to see what is going on, and go back to the programs and make sure that they attempt to give us responsive answers to the questions that we are certainly entitled to ask, and we shall be doing that.

Senator DENTON. From the findings of the hearings so far, the testimony in the hearings, it is easy to understand why the principal objections to the Corporation are, first, that its officials engage in lobbying and, second, that local grantees do not have to be accountable for their actions. One of the frequently discussed alternatives for providing Federal funds for legal services is the concept of block grants to the States.

As you know, I introduced an amendment to this effect in 1981, and Senator Hatch has repeatedly stated his interest in the concept during these hearings. I think we both believe such an alternative may be needed to remedy the problems besetting the Corporation. Do you feel, based upon your experience, that block grants would be an effective way for providing legal services to the poor in a manner which is equitable, effective, and nonpolitical?

Mr. BOGARD. Well, Senator, I certainly believe that it would be one approach that could be taken. However, I think the events of this past week show that the need for accountability in this program is quite high. I am not sure that the accountability that you seek would be as available through the block grant procedure as it might be through a strong central corporation.

You have a situation, for example, if you gave funding to the State government, where the State could be on both sides of the lawsuit. They would, in effect, be paying the lawyers bringing lawsuits against them, so there are some problems that have to be addressed but it is one that is worth investigation, I believe.

Senator DENTON. I raised the same question with my staff as we discussed that last night. I am not sure that there would be any particular improvement there.

Mr. BOGARD. One of the things that the continuing resolution did was to require that the boards of these local programs have the attorney members, the majority of them, appointed by the majority bar association in the area. I think that will do a lot to create stronger control of the local organizations, and if that provision were continued into the permanent law, then I think the Congress would have a stronger method of insuring accountability by the program.

Senator DENTON. Well, I got into that with a lawyer and there seems to be a difference between the bar officers, the bar association, and I imagine from State to State it varies to a degree. However, I tend to believe that if you get down to the State level you probably get away from some of the impetus of national, ideologically oriented groups which were involved in the genesis of all of this activity.

It is not that there is anything wrong in a democracy for the existence of such groups; it is simply that they don't belong in this tax-paid physiology. I don't know what local bar would rule that out.

We do have a mandate. We did have an election. We did have a platform. I believe it deserves a go. I would say that not more than a quarter of the platform which the elected President has tried to

implement has been permitted to flow through this Congress. I think that is a betrayal of the mandate from the people, and I believe there is sufficient evidence that that mandate was correct and that there is a need to clean up some of this.

On Tuesday Mr. Fields, representing the Farm Bureau, stated that he would augment the role of the State advisory councils and provide them with the authority to determine who would receive the grants within the State. He contended that this approach would increase the accountability of the programs and insure that legal services funds could not be used for political purposes. Would you comment on this proposal?

Mr. BOGARD. Well, I think our figures on State advisory councils would not support giving them increased responsibilities. In fact, 44 of the 50 States do not have named State advisory councils. There seems to be a lack of interest by Governors in pursuing that possible use of committee and people.

Also, I firmly believe in the independence of this Corporation, and I don't want outsiders making funding decisions for the corporation. I think that is a decision that must be made by the Corporation.

Senator DENTON. I would like to ask a few questions about the so-called Weicker amendment to the continuing resolution, which requires you to fund in 1983 each grantee funded in 1982 and fund them at the same level. Could you please describe what effect this provision is having on some States that have had a dramatic increase in the numbers of poor people in the State? For example, do you know anything about the effect on Connecticut, the State which Senator Weicker represents?

Mr. BOGARD. Well, Senator, it has obviously had an effect on most programs. We are funding people based upon the 1970 census, and the 1980 census shows that there are approximately 1 million more poor people—

Senator DENTON. You are using the 1980 census?

Mr. BOGARD. Yes, sir; that is correct.

Senator DENTON. Go ahead.

Mr. BOGARD. The 1980 data was not available to us until 2 or 3 months ago and, of course, the Weicker amendment being in effect at that time, we were precluded from making any adjustments to funding based upon that new information. Therefore, in response to Connecticut it appears from our chart that currently Connecticut programs receive slightly in excess of \$2 million in funding from the Corporation, and if we were to use 1980 census figures it would be in the area of \$2.2 million, so Connecticut would be losing a couple of hundred thousand dollars by the fact that we have not been able to make any adjustments.

Senator DENTON. Well, how about Ohio? How would it fare under a corrected population count?

Mr. BOGARD. Ohio is at \$6,530,000. If we use 1980 census figures, Ohio goes to \$6,690,000, so that would be an increase of approximately \$160,000. Now that is just using the same figures that we are using now, and it doesn't include backing out other figures put in for special reasons. If we went strictly to a numbers analysis, Ohio would increase from \$6.5 million to \$7.2 million.

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Theron Pray O'Connor
William Pray O'Connor

August 5, 1983

The Honorable Orrin Hatch, Chairman
Committee on Labor and Human Resources
Room 428 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Testimony of Gregg Hartley before
the Legal Services Corporation
Oversight Hearings July 15, 1983

Dear Mr. Chairman:

I recently have had reports of the proceedings of the July 15, 1983 oversight hearing on the Legal Services Corporation. I was particularly taken by accounts of the statements of Mr. Gregg Hartley regarding the Corporation's survival effort during early 1981.

In my capacity as the Corporation's Regional Director in Chicago, I was the host of the project directors' meeting held in St. Louis in early 1981 which Mr. Hartley reportedly described in such exquisite detail.

With respect to that meeting, I find my recollections to differ markedly from those of Mr. Hartley. While I do find his description of that meeting incomplete and distorted, I will agree with his characterization of it as focussed upon the survival of the national legal services program. In any event, the agenda is a matter of public record and describes the events with reasonable accuracy.

Where I begin to part company with Mr. Hartley (who is not a lawyer) is with his flat-out assertion that the activities subject of those proceedings were in violation of the law. The Legal Services Corporation Act, and other provisions in effect at the time, explicitly permitted both the Corporation and its grantees to lobby regarding measures directly affecting their activities under the Act. Clearly, repeal of the Act, abolition of the Corporation, and the range of proposed restrictions upon recipient activities lay at the heart of any definition of such measures. We undertook the responsibility of that defense using proper techniques of legislative representation and advocacy.

My differences with Mr. Hartley widen to a gulf with his pious, almost cloying, account of his role in the St. Louis meeting and in the activities which were a product of it. He claims to have been surprised at the subjects of discussion, that he distanced himself from them and that he did not participate in them. He claims that it was his view at the time (contrary to my view and that of the other participants) that such activities were illegal.

In fact Mr. Hartley and I, despite the vast separation of our personal placements on the political spectrum, were friends in the pluralistic world of legal services. We were both, at least at that time, committed to the survival of legal services albeit in substantially different modes. Mr. Hartley and I talked frequently before, during and after the St. Louis meeting about the survival effort and his role in it.

In particular we discussed his initiative and progress in forming a group of conservative legal services people and supporters to focus survival activities upon conservative members of Congress. While their agenda did not exactly coincide with the mainstream effort, their strategy and tactics were precisely the same. They obtained resolutions from their Boards of Directors; they visited members of Congress themselves both within their districts and on the hill; they persuaded their board members, conservative bar leaders and others in the community to likewise contact their Senators and Representatives; and they attempted to develop general public support for the continuation of legal services for the poor. I considered those activities to be legal and proper at the time. Mr. Hartley now says that he did not.

Lest you suspect that my strength of recollection and veracity may be at the same level to which I now assign Mr. Hartley's, I have attached a copy of the minutes of a meeting of his Board of Directors held on March 30, 1981. Therein, in his Report of Funding Situations he presents in no uncertain terms his role in the survival effort. The report speaks for itself. Furthermore, contrary to Mr. Hartley's repeated assertions to Senator Denton about Mr. Hulett Askew's role in the St. Louis meeting, Mr. Askew was not even there. Should you require more, I will be happy to elaborate on these events under oath before your Committee.

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Hearing Before the Committee
on Labor and Human Resources, U.S. Senate

April 11, 1984

Excerpts Involving Testimony/Documents
Valuable to Hulett H. Askew

The CHAIRMAN. OK, as soon as you can. Go ahead.

Mr. POTACK. The following day, I provided that formal communication in which I also outlined or discussed the conversation we had the day prior. I indicated in that letter that NLADA had indicated that it was not a typical grantee, and therefore they wouldn't agree to any monitoring until all the terms and conditions of that monitoring business were negotiated. He was not sure whether or not a visit would even take place, because his interpretation of monitoring didn't necessarily call for a monitoring visit. So at that point in the conversation on the 26th, and this is outlined in the letter, I said, "We gave you a lot of money, a couple million dollars," and we had a right to monitor those grants.

The CHAIRMAN. Who were you talking to at the time?

Mr. POTACK. Mr. Clint Lyons, the Executive Director of NLADA.

The CHAIRMAN. What did he say?

Mr. POTACK. He took exception with my statement that we gave them the money. He became somewhat exercised about that, that in fact it was he who gave the money as being the primary—having primary responsibility for that grant award while he was at the Corporation and not myself, I guess. So he was upset with the fact that I indicated that we had given him the money because it was he and former officials at the Corporation that were responsible for awarding those grants. And he also indicated that it would be hard for a team to judge whether that money was spent as intended because I wasn't around at that time to know what the parties intended those grants to be used for.

The CHAIRMAN. He just as much as thumbed his nose at you, then? Is that what you're saying?

Mr. POTACK. That's the way I—well, at that time he requested further meetings in order to negotiate all these terms and conditions. That was not acceptable—

The CHAIRMAN. How long ago was that?

Mr. POTACK. That was January 27.

The CHAIRMAN. This year?

Mr. POTACK. Of 1984.

The CHAIRMAN. Well, on March 24, 1982, Mr. Hewlett Askew sent a letter to Wayne Pressell, who was director of the management project, which stated that as a result of the meetings that Mr. Lyons and he had had with representatives from NLADA they had an adequate sense of the progress that had been made on the grants and what was being planned for the future.

Mr. Askew, as I understand it, went on to say that, as a result, NLADA's requirement to provide the Corporation with a work plan and detailed budget was satisfied. Aside from Mr. Askew's and Mr. Lyons' personal observations, are there any other materials that the Corporation has retained to explain what NLADA is either doing or not doing with this management project?

Mr. POTACK. As Mr. Bogard indicated, all we have are two sketchy reports which indicate that they received \$1.2 million for the management and development project, and that they had made certain expenditures for consultants. There's a notation on each of those reports that no prior approval is required.

Other than that information, we don't have anything and those reports were only for the management and development project. We did not receive any type of quarterly reports on the other portions of those grants—

The CHAIRMAN. So there is no written record at all, then?

Mr. BOGARD. I believe Mr. Norell could add something.

The CHAIRMAN. Mr. Norell.

Mr. NORELL. Yes, sir; one of the grant assurances that was originally agreed to with NLADA had to do with the filing of quarterly reports. They were also required to file a detailed work plan and a line item budget. The last two of those items were in a series of letters on March 23, that the Corporation agreed essentially to waive those items; but indeed, a line item budget was provided and it was 12 lines.

The CHAIRMAN. It was what?

Mr. NORELL. It was 12 lines long.

The CHAIRMAN. Twelve lines long. That's all, for a \$1.2 million report?

Mr. NORELL. Yes, sir.

Additionally, they have not waived the question of quarterly reports. However, quarterly reports were not provided, and in August 1982 the Corporation waived the requirement that quarterly reports be provided for the ones that should have been provided in the past. They did not, however, waive the next quarterly reports that were due. Yet we can find no evidence that quarterly reports were ever forthcoming.

The CHAIRMAN. If I understand you correctly, most Corporation grants contain a condition requiring this submission of quarterly or semiannual reports on the status of the particular grant; that's right, isn't it?

Mr. NORELL. Yes, sir.

The CHAIRMAN. OK. Now, what you're telling us is that these have not been provided except in part, and certainly, not currently.

Mr. NORELL. Yes, sir; that's correct.

The CHAIRMAN. And their claim is that the Corporation waived the requirement; is that correct?

Mr. NORELL. Yes; again, there is a series of correspondence in which two of the grant assurances were, in essence, waived. They did not, however, waive the quarterly reports; they are simply not there. The only two that we have, that we were able to locate, were from 1983, and they are very sketchy.

The CHAIRMAN. Well, let me put into the record a letter to Mr. Wayne M. Pressell, dated March 4, 1982, from Hewlett H. Askew. Without objection.

Material supplied follows:]

272-4080

March 24, 1982

Wayne M. Pressel
 Director, Management Project
 National Legal Aid & Defender Association
 1625 K Street, N. W. - Eighth Floor
 Washington D. C. 20006

Dear Wayne:

Thank you for your letter of March 23 regarding the activities of the Management Project. As you know the grant made to NLADA by the Legal Services Corporation contained several special conditions requiring the submission of line item budgets, workplans, and quarterly reports (see conditions number 9, 10, and 11). In December of 1981, Howard Eisenberg requested and I approved, an extension of time for complying with these conditions because of delays experienced in hiring the director of the Management Project.

The sum and substance of the conditions on your grant emphasize the Corporation's interest in the success of your project. Technical compliance with formal conditions is of course very important, but the Corporation has always done more than simply relate to its grantees in a formalistic compliance context. Clint and I believe that because of our interaction with both you and Howard, because of our attendance at several meetings where the work of the project was discussed, and because of the feedback we have received from various individuals, including many of the Regional Directors, we do have an adequate sense of the progress your project has made and what your plans for the future are. Our oversight responsibilities have been met, both in formal and informal ways.

Therefore, your letter of March 23 serves as formal compliance with special conditions number 9 and 10 of the grant to NLADA dated September 28, 1981. I appreciate your responsiveness and the effort you have made to keep us informed of the project's progress.

Wayne M. Pressel
 March 23, 1982
 Page Two

I understand that the Advisory Committee will be meeting again on March 26 to provide further guidance to you as to the most pressing needs in the field. I expect that as issues develop and time passes, that some of your priorities may change and the workplan will become more specific. Please keep us apprised of these changes.

Thank you for your cooperation.

Sincerely,

Hulett H. Askew
 Deputy Director
 Office of Field Services

cc: Howard Eisenberg

The CHAIRMAN. In other words, while Mr. Lyons and Mr. Aske were handling these grants for the Corporation in 1982, they excused NLADA from the standard requirement to provide a written status report on those grants. Am I correct?

Mr. NORELL. That's correct, from what is indicated from the record. Yes, sir.

The CHAIRMAN. I think that is the letter I just put into the record.

Let me turn to the leadership project, Mr. Bogard. Has the Corporation received any reports from NLADA regarding that particular project?

Mr. BOGARD. I don't believe so.

Maybe Jim could answer that.

Mr. NORELL. Yes, sir. There is one report that we have in the record on the—

The CHAIRMAN. Could you tell us the title of that report?

Mr. NORELL. Yes, sir. It's the Leadership Project, Legal Aid and Defenders' Association Annual Report, October 1, 1982—

The CHAIRMAN. That's the one we received last year?

Mr. NORELL. Yes, sir.

The CHAIRMAN. OK.

Mr. NORELL [continuing]. To September 30—

The CHAIRMAN. Well, when I looked at that I was amazed to find that it contained numerous recommendations that, if implemented, would violate most of the existing congressional prohibitions. Do you agree with that?

Mr. NORELL. Yes, sir.

The CHAIRMAN. For example, there's a discussion where their efforts should be focused on, "finding new ways of working, particularly in the areas which are likely to be blocked by LSC legislation or regulation." You're familiar with that language?

Mr. NORELL. Yes, sir.

The CHAIRMAN. Elsewhere, the report emphasizes the need to solidify the political posture and the ideological glue of the system. Are you familiar with this statement?

Mr. NORELL. Yes, sir, I am.

The CHAIRMAN. The report also suggests that NLADA should use the leadership project moneys to provide financial assistance to those organizations, "linked to the central ideologies of the legal services movement in order to effectively support an informal government in exile." Is that a direct quote?

Mr. NORELL. Yes, sir.

The CHAIRMAN. In addition, the report suggests the moneys be used to draft and lobby for passage of model legislation in target States, and one recommendation urges development of a national orientation program, similar to a, "military model and results in the indoctrination of those who pass through it." Are you familiar with that?

Mr. NORELL. Yes, sir.

The CHAIRMAN. It's all in that report?

Mr. NORELL. Yes, it is.

The CHAIRMAN. Taken together, the report seems to advocate that the moneys earmarked for the leadership project, more than \$1 million, be used to underwrite the political agenda of the legal

services community during the Reagan administration's tenure in office. Do you differ with that comment?

Mr. NORELL. Senator, we don't know how this money was spent—

The CHAIRMAN. That's what I'm saying. That's what they seem to be advocating here.

Mr. NORELL. Yes.

The CHAIRMAN. That these moneys be used to underwrite that type of activity.

Mr. NORELL. Yes.

The CHAIRMAN. So you don't know whether those approaches were actually implemented?

Mr. NORELL. No, sir, we do not.

The CHAIRMAN. Let me insert into the record at this particular point, as Bogard document No. 2, a copy of the report.

[Bogard document No. 2 follows:]



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JOHN T. SCOTT
Chicago, IL

Bogard Doc. #4

March 23, 1984

Mr. Donald P. Bogard
President
Legal Services Corporation
733 Fifteenth Street, NW
Washington, DC 20005

RE: Legal Services Corporation
Grant Actions: 81-0004 and
82-0001

Dear Mr. Bogard:

Thank you for your prompt response to my letter of March 14. I regret that the NLADA proposal for the monitoring process which would allow us to address and clarify some important issues prior to the review did not meet with your acceptance and approval. The resolution of the critical issues of the status of LSC grants made to NLADA and the ground rules for the monitoring process is important for a number of reasons. The status of the LSC grants to NLADA, as viewed by LSC, has implications for NLADA's planning in regard to the completion of the grants. Further, NLADA has delayed asserting claims that it may have under the appropriation language attached to Public Law 98-114 because we have been attempting to reach some cooperative clarification of the issue of status with LSC. Apparently, NLADA's position on this issue will have to be affirmed in another forum.

We believe that establishing clear guidelines and ground rules up front for the monitoring process will facilitate a review of what is essentially a unique relationship. NLADA is not a recipient of LSC in the sense of other grantees. It is an independent contractor whose LSC funded activities are only part of its overall activity. It seemed to us imminently good sense to address these issues in a serious way in order to avoid confrontation and delay once the review process was under way. Further, in view of the facts surrounding your initial contact with NLADA regarding the grants, the switch from audit to monitoring and the substance and tone of Mr. Potack's letters give us cause for concern. Those factors clearly argue for some clarity regarding the ground rules for review.

We must lodge our objection to your refusal to discuss and state the ground rules for the review process, we believe it is important that NLADA continue to demonstrate its compliance with the intent and purpose of the grants. Consequently, I have instructed the Executive Director of NLADA to set aside the week of May 2nd for the monitoring visit requested by LSC.

I have further instructed the Executive Director to assemble information involving the LSC funded activity and forward that information to LSC at least one week prior to the visit.

NLADA will prior to the visit present to LSC a review procedure that we think meets statutory requirements as well as protect the legitimate interests of NLADA.

We look forward to completion of this process.

Sincerely,

Benjamin Luther
Benjamin Luther
President

cc: Clint Lyons
Mr. Gene Potack

The CHAIRMAN. Now, let's go back over just what we've covered here, because I'm really concerned.

In 1981, the way you've explained it to me and to this committee, that Lyons told Mr. Hewlett Askew to solicit a grant from LSC to NLADA. One month later, NLADA was given a grant of \$1.23 million, and later received additional grants so that by the end of calendar year 1981, it had received more than \$2 million in Corporation grants.

Now, had NLADA received similar grants in prior years?

Mr. BOGARD. It had very small grants in previous years.

The CHAIRMAN. But nothing like this? Nothing on the magnitude of what's involved here, is that right?

Mr. BOGARD. That's right.

Mr. POTACK. They received a grant of approximately \$50,000, and then that was increased to \$70,000 on an annualized basis for the Access to Justice project. Money for technical assistance—

The CHAIRMAN. So we're talking about a 300-percent grant award increase in calendar year 1981?

Mr. POTACK. A lot more than that.

Previous to that, the Corporation had kept management and technical assistance in-house. Back in the early seventies, I believe, the NLADA might have received some grants. Jim Norell could probably give you a better background on that. But you're correct; the NLADA annualized grant for this Access to Justice project, which was the National Support Backup Center, was approximately \$1,000, I believe, and so the funding increased to over \$2 million.

The CHAIRMAN. In other words, you're saying that in 1981 NLADA received an unprecedented amount of grant moneys from the Corporation after grant proposals were solicited from NLADA by Mr. Clint Lyons. Is that right?

Mr. NORELL. Yes, sir; I might add that in 1978, NLADA had put in for a grant for half a million dollars for technical assistance. This was turned down by the Corporation, and the Corporation at that time said that technical assistance belongs in-house, in the Corporation. In 1979 they turned down that grant.

The CHAIRMAN. Well, Clint Lyons, at the time, was the Corporation's Director of the Office of Field Services; is that right? Then he asks his deputy—well, I don't know whether he asked him—but his deputy, Mr. Askew, subsequently waives, in March 1982, many of the reporting requirements that are traditionally associated with the Corporation grants for the grants given to NLADA. Is that a correct summary of what we're saying here?

Mr. NORELL. Yes, sir.

The CHAIRMAN. In other words, here's the Director who sees that these monumental grants, that were tremendously larger than this outfit had ever seen before, were given; and then his Deputy Director waives most of the requirements for reporting.

Mr. POTACK. And those they didn't waive, they didn't comply with.

The CHAIRMAN. Well, was the Board informed about this waiver?

Mr. NORELL. No, sir; not that we—

The CHAIRMAN. He waives the reporting requirements, or many of them, and the ones he didn't waive they haven't complied with.

Mr. POTACK. In terms of reporting, in terms of the Legal Services Act and regulations which they were subject to as a grant condition, we don't know that.

The CHAIRMAN. And you're saying that the Board was not even informed of this waiver?

Mr. NORELL. Not that we can show from the record, sir.

The CHAIRMAN. Well, if that doesn't sound ultra varies, I don't know what does. But in any event, NLADA received an unprecedented amount of funds in 1981. These funds were immediately disbursed; am I right on that? Yes or no?

Mr. NORELL. Yes.

The CHAIRMAN. OK.

In 1982, the traditional auditing requirements contained in those grants were waived by Mr. Askew. Is that right?

Mr. NORELL. Yes, sir.

The CHAIRMAN. Subsequently, both Mr. Lyons and Mr. Askew, who played such significant roles in the awarding of these grants and the waiving of all responsibilities in certain areas with regard to those grants, they both end up working for NLADA; is that right?

Mr. BOGARD. That's correct. Mr. Lyons is the Executive Director.

The CHAIRMAN. He's the Executive Director of NLADA. And Mr. Askew, what's his job?

Mr. NORELL. He's a consultant.

The CHAIRMAN. He's a consultant? Do you know how much he's paid?

Mr. NORELL. I have no idea, sir.

The CHAIRMAN. And now Mr. Lyons and his associates are telling the Corporation that it does not have the authority to review these grants unless a variety of conditions, demanded by NLADA, are met in advance. Am I correct in summarizing it that way?

Mr. BOGARD. That's correct.

Mr. POTACK. Senator, in answer to your previous question about salary, at a meeting on February 6, 1983, in New Orleans, I believe the NLADA Board said that the salary for the Executive Director should remain at between \$50,000 and \$60,000.

The CHAIRMAN. So he's probably at least making that much.

Mr. POTACK. I would assume so.

The CHAIRMAN. Well, as a result of these developments the Corporation has given out more than \$2 million for projects, and yet it has no idea what those moneys are going to pay for. Am I right?

Mr. BOGARD. That's correct.

The CHAIRMAN. And if the only available report on one of these projects is correct, it may, in fact be funding a variety of illegal activities with Legal Services Corporation money. Right?

Mr. BOGARD. Right.

The CHAIRMAN. And now, as I understand it, NLADA is not only doing that, but they're saying that they're entitled to another \$2.2 million under the same terms and conditions so they can go blow that money any way they want to. Is that right?

Mr. BOGARD. That's certainly the implication in their letter.

The CHAIRMAN. And that's based on the court's decision in *Massachusetts Law Reform Institute, et al. v. Legal Services Corporation*, is that right?

Mr. BOGARD. Yes, sir.

The CHAIRMAN. Well, Mr. Bogard, what steps are you going to take to rectify this ridiculous situation?

Mr. BOGARD. We have had a number of discussions in-house. We've been contacting outside counsel on the approaches that might be available to us to pursue correcting this matter, and we intend to address ourselves to it fully.

The CHAIRMAN. Well, let me say this for the record. I would like to just point out that an invitation was sent to the National Legal Aid and Defenders' Association to testify about the status of these particular grants, and specifically we asked Mr. Lyons, the executive director of the association, to testify because of his unique role in this matter. Now, the lawyers representing Mr. Lyons informed my staff that he just plain is not willing to testify at this time. As a result, we went back to NLADA to see if someone else from the association would be willing to testify. My staff contacted the President of NLADA, Mr. Benjamin Lerner, who stated that while he would be willing to testify, Mr. Lyons was the association official who would have the best knowledge of the current status of the grants. He said he would prefer that the committee submit any questions that committee members might have concerning these grants to NLADA, and the association would provide written answers.

I think you ought to pull every string you have, every legal ability that this Corporation has or any of you have, and you ought to go after and find out just where those money are, what they've been used for, whether there are the improprieties that have been

suggested here today—and they certainly look like it to me, based upon what limited information you have—and I think somebody ought to have to account here.

If they can account, and they can account properly, that's another matter. But it appears to me that it's going to be a very difficult thing for them to do.

You know, these are, I suppose, the so-called liberals out there really trying to take care of the poor and they wonder why some of us get so darned upset. I think Jerry Denton was right; President Reagan wants to have legal services for the poor, but he has personally felt that this is so corrupted, this institution, that it would be better to fold it and come up with some approach that will do exactly that, get these moneys out to help the poor.

Now, I don't want to sound like I'm beating on you, because I do think you're trying to change things down there, and this is one of the isolated occurrences. I think you've made some strides, and I appreciate that.

Let me turn to another issue. We just asked several questions about what I believe to be one of the oldest grants awarded by the Corporation in recent memory. In 1981, did the Corporation award a grant for \$303,000 to the Legal Aid Society of Albuquerque with the understanding that this grant would be administered by Rio Grande Associates? Is that right?

Mr. OPSUT. Yes, it did, Mr. Chairman.

The CHAIRMAN. OK. Would you please explain what Rio Grande Associates is, and what was the purpose behind the awarding of this grant?

Mr. OPSUT. Rio Grande Associates—it's hard to define because the operator of Rio Grande Associates classified it in three different ways. As far as we can tell, it's a loose association of technical people who provide technical assistance to legal services programs. Back in 1980 there was a contract between Legal Services and Rio Grande Associates; the operator of that association is Mr. John Arango, located in Algodones, NM.

The original contract was for \$110,000. It was to provide technical assistance to legal services programs in the area of priority. The original contract of Mr. Arango's and Rio Grande Associates was set to expire in September of 1981. In April of 1981, Mr. Arango's contract was extended by Mr. Hewlett Askew, then the deputy director of the Office of Field Services. Mr. Arango indicated that he couldn't complete the work by the end of the contract period.

In August of 1981 there was a remaining balance on that original contract of \$50,000. The problem was that at the end of September of 1981, the Board of Legal Services had indicated that all moneys not expended would be brought back into the general operating fund. Mr. Askew's plan for that was to make a one-time grant to the Legal Aid Society of Albuquerque. They would contract with Mr. Arango to do the work. Mr. Arango was given an additional \$58,000 in that contract to perform additional technical assistance work.

There were other funds available at that time but, again, the Corporation's senior staff wanted to get out of Legal Services Corporation—those were State support moneys. There were three regional offices that had not submitted paperwork to get the State

support money out to State support programs. This money, which amounted to \$177,000, was also included in the grant to Legal Aid Society of Albuquerque, for a total of \$303,204.

The CHAIRMAN. Well, let me recite my recollection of some of this and see if you agree.

As I understand it, Rio Grande Associates is run by this John Arango of New Mexico and—is it correct that he's the entire staff of Rio Grande Associates?

Mr. OPSUT. He is the entire staff. He's it.

The CHAIRMAN. Arango was under previous contract with the Corporation for \$100,000 as I understand it, but he was unable to spend all of those funds?

Mr. OPSUT. That's correct.

The CHAIRMAN. OK. Now, he asked for an extension and the Corporation agreed; am I right on that?

Mr. OPSUT. That's correct.

The CHAIRMAN. But the Corporation asked him if he would also allow the Corporation to include State support moneys in this particular grant, is that right?

Mr. OPSUT. That's correct.

The CHAIRMAN. He agreed, and those moneys were to cover State support in New York, in the Philadelphia and Denver regions; is that correct?

Mr. OPSUT. That's correct.

The CHAIRMAN. OK. Now, why was Mr. Arango chosen to administer the distribution of State support moneys in these three regions?

Mr. OPSUT. I'm not sure, Mr. Chairman, why he was selected.

The CHAIRMAN. Well, I thought everybody pretty well agreed that Arango knew absolutely nothing about State support, but that the Office of Field Services—

Mr. OPSUT. That's correct. When Mr. Arango was interviewed, he indicated to us that he knew absolutely nothing about—

The CHAIRMAN. He didn't know a thing about it, but the then—Office of Field Services, that's Mr. Lyons and Mr. Askew surfacing

Mr. OPSUT. That's correct.

The CHAIRMAN. Well, they thought they were under pressure to get the money out into the field before the end of fiscal year 1981, is that correct?

Mr. OPSUT. That's correct.

The CHAIRMAN. This is the evidence that you've been able to

Mr. OPSUT. This is from Mr. Arango.

The CHAIRMAN. Well, otherwise the funds would have reverted to the Corporation's general funds, and really could have been spent elsewhere; is that correct?

Mr. OPSUT. That's right, as provided for by the Board.

The CHAIRMAN. OK. Now, as I understand it, Mr. Arango has acknowledged that he was not, nor is, an expert in the area of State support, is that right?

Mr. OPSUT. His indication was that he knew nothing about State support—

The CHAIRMAN. Then who was in charge of distributing those funds?

Mr. OPSUT. The Office of Field Services, Mr. Askew and Mr. Lyons were in charge of it together with the State Support Coordinator, a Mr. Walker Thompson.

The CHAIRMAN. You've mentioned \$303,000. Was the \$303,000 divided up into categories or was it all to be spent on State support activities?

Mr. OPSUT. If I could, I'd like Mr. Webber, again, the person who does our financial work, to address that.

Mr. WEBBER. Senator, the \$303,000 was actually divided up into a number of categories. Technical assistance of \$58,000, plus the rollover of the \$50,000 remaining in the 1980 grant; \$177,000 was identified as State support, and the last category was \$17,300 identified as a project leader selection grant. The latter amount of \$17,300 was paid by Legal Aid Society of Albuquerque directly to Mr. Wayne Pressell under this grant. The balance of \$285,000 was retained by Legal Aid Society of Albuquerque and an agreement was made between LASA and Rio Grande that, as the money was spent by people working for Rio Grande Associates, John Arango would submit vouchers to LASA [Legal Aid Society of Albuquerque], and LASA would then reimburse Rio Grande for the expenditures.

In some cases, especially in the distribution of State support money of \$106,500, this money was passed through Rio Grande Associates from LASA.

The CHAIRMAN. Let me go through this a little bit.

Mr. WEBBER. There was one other thing that happened. Within the financial records, there's a notation in Rio Grande's ledger sheets on November 14, 1981, referencing a call from Walker Thompson telling John Arango to transfer the balance that was in the State support funds to another account, headed up, "NOSSU."

The CHAIRMAN. What is that?

Mr. WEBBER. NOSSU, N-O-S-S-U.

At that time, I found a memorandum to file by John Arango confirming this telephone conversation with Walker Thompson, and in it he indicated that he wasn't sure what the balance would be in the State support funds because he was still waiting for some bills to come in. Subsequently, in 1982, he posted to the NOSSU account—transferred it out of the State support account—\$36,875. And in tracing the charges against this account we found numerous travel requests by individuals throughout the country.

I guess that's about it.

The CHAIRMAN. Anything else you want to say on this?

Well, let me do this; let me kind of go through what my recollection is of it and see if you agree with me.

With regard to this \$303,000 for State support activities, as I understand it \$106,000 went to State support projects; is that right? About \$106,000?

Mr. WEBBER. Yes, directly.

The CHAIRMAN. OK. Now, I think \$108,000 went to technical assistance, as it was called, under Arango's extended contract; is that right?

Mr. WEBBER. That's correct.

The CHAIRMAN. And \$17,000 went to a project director selection grant, and \$36,000 was eventually set aside to cover the expenses of an organization called the National Organization for State Support Grants. Is that correct?

Mr. WEBBER. That's correct, and that money came out of the \$177,000 originally identified for State support.

The CHAIRMAN. OK. At this point I would like to place in the record, without objection, three documents concerning the grant we're discussing. These are letters and memorandums of conditions, agreements and understandings. We will designate these as Bogard documents Nos. 5, 6, and 7.

[Bogard documents Nos. 5, 6, and 7 follow:]

Bogard Doc. #7

MEMORANDUM OF UNDERSTANDING BETWEEN THE LEGAL AID SOCIETY
OF ALBUQUERQUE AND THE LEGAL SERVICES CORPORATION

The Legal Aid Society of Albuquerque ("Legal Aid") will perform the following tasks with respect to state support:

1. In order to improve the capacity of entities providing state support to:

- (a) plan, monitor and assist in implementing a coordinated approach to the legal issues affecting eligible clients arising out of the implementation of block grants, related programs and other federal assistance programs;
- (b) assist legal services programs and eligible clients in addressing significant substantive issues; and
- (c) become more economical and effective in the delivery of legal services.

the recipient shall contract with individuals and corporations to conduct special projects designed to accomplish in whole or in part the purposes set forth in this paragraph. A special project shall be any activity approved by the Director of the Office of Field Services of the Legal Services Corporation or his designee on or before November 30, 1981. Special projects funded for the purposes set forth in this paragraph shall not exceed in aggregate \$111,029.

2. To qualify for approval, proposals for special projects and proposed budgets must be received by the recipient and the Director of Field Services on or before November 23, 1981. The Office of Field Services will review and approve or disapprove the proposed project and budget in a timely manner.

3. Once a special project has been approved, the recipient will reimburse the contractor for costs, including fees and actual expenses, in carrying out the special project up to the amount of the approved budget. The recipient may make an advance against the amount of the approved budget to a contractor.

4. In addition, for the purpose of planning and conducting conferences on state support efforts, and for the purpose of providing on-site consultant and other technical assistance to state support efforts, the recipient shall contract with individuals and corporations. Contracts entered into pursuant to this paragraph shall not exceed in aggregate \$66,000.

LEGAL AID SOCIETY OF ALBUQUERQUE

LEGAL SERVICES CORPORATION

By: _____

By: _____

Date: _____

Date: 12-10-81

The CHAIRMAN. Now, as I understand it, Mr. Arango originally had a contract for \$110,000, of which \$50,000 was not expended in fiscal year 1981. Is that correct?

Mr. WEBBER. The actual amount was—well, I'd like to correct the word. It was \$114,000, and by mid-1981 he had spent—he had \$60,000 left of it.

The CHAIRMAN. Oh, I see; it was \$50,000 left. OK. But am I right, now, that he had a contract for \$110,000 of which \$50,000 he failed to expend in fiscal year 1981?

Mr. WEBBER. That's correct.

The CHAIRMAN. And when his contract was extended, why was it increased to \$110,000 instead of the \$50,000?

Mr. WEBBER. Why did he still have \$50,000?

The CHAIRMAN. Well, why did they extend it up to \$110,000 instead of keeping it at \$50,000?

Mr. WEBBER. The contract was a cost reimbursement contract. What they had done, they had given him the grant for \$114,000, but it's cost reimbursement. He had submitted expenses to the Legal Services Corporation in mid-1981—he had \$50,000 available to him; and according to his discussion with us initially in Albuquerque, they were concerned about the extension that they had received because apparently there was some problems within the Corporation which I'm not aware of. But one thing that—apparently, in the discussion with the individuals at Legal Services Corporation, they agreed to advance him another \$58,000 for technical assistance.

Mr. BOGARD. We don't know the basis for that.

The CHAIRMAN. Now, you've been talking about NOSSU, that's the National Organization of State Support Units; right?

Mr. OPSUT. That's correct.

The CHAIRMAN. OK. Now, this was given \$36,000 by Mr. Arango, and as I understand it—and correct me if I'm wrong—in November 1981 he was told to do this by Mr. Walker Thompson, who was the State Support Coordinator for the Office of Field Services; NOSSU was created to lobby the Corporation to continue funding for State support efforts. Is that correct?

Mr. OPSUT. That's correct.

The CHAIRMAN. The statement submitted to the committee by Mr. Hewlett Askew, he states that NOSSU was founded in December 1981 to coordinate State support activities. Now, I think the dates here are critical because in the sequence you're suggesting, or at least suggested by these facts, it would appear that the Corporation was directly involved in the creation of NOSSU. Am I correct in making that assertion?

Mr. OPSUT. Based on the dates, that would be—

The CHAIRMAN. Well, let me put Mr. Askew's statement into the record as Bogard document No. 8.

[Bogard document No. 8 follows.]

STATEMENT OF
HULETT H. ASKEW

Bogard Doc. #8

My name is Hulett H. Askew. From 1978 to 1982, I was the Deputy Director of the Office of Field Services of the Legal Services Corporation, and from 1982 to March of 1983, I was the Acting Director of that Division. During my tenure with LSC, I was responsible for supervising and coordinating the work of LSC's nine regional offices.

Kevyn McGuinness of Senator Orrin Hatch's staff asked me to address three questions regarding:

1. Why was the grant made, and specifically why to this program?
2. Why was \$58,000 added to the grant and for what purpose were these funds to be utilized?
3. Why were part of the grant funds utilized for the activities of the National Organization of State Support Units?

I. Why Was The Grant Made, And Specifically Why To This Program?

In 1979, the Government Accounting Office (GAO) issued a report on the Legal Services Corporation in which it concluded that LSC should be doing more to assist legal services programs in implementing the requirements of Regulation 1620--Priority Setting. In early 1980, the Board of LSC approved the setting aside of funds to address the GAO recommendation; and during 1980, a committee made up of LSC staff and field program representatives discussed the status of priority-setting and what should be done about it. A set of "standards" for priority-setting were produced in September of 1980 as a product of this process.

In October or November of 1980, OFS entered into a contract with Rio Grande Associates (RGA) and Ken Neiman to test the priority-setting "standards" in several field programs and to assist legal services programs generally in complying with

Regulation 1620. Ken Neiman was the person who produced the "standards" and had a great deal of experience as a management consultant. Rio Grande Associates was selected because John Arango, the founder of the firm, was the acknowledged national expert on priority-setting in legal services and had been deeply involved in this work since the early 1970's. He was respected and trusted by LSC and also, importantly, by field programs. Rio Grande, Arango and Neiman all had several contracts with LSC prior to 1980. The contract amount was approximately \$110,000 and the priority-setting work was to be completed by September 30, 1981.

The possible demise of the Legal Services Corporation and the very uncertain future of every Corporation-funded recipient caused most programs to postpone their priority-setting plans until future funding prospects were known. By March of 1981, it became obvious to LSC and to the contractors that the work under the contract would not be completed by September 30, 1981. Therefore, LSC in April of 1981 amended the RGA contract to extend the completion date to April 1982.

During the spring and summer of 1981, the LSC Board and staff began making plans for absorbing a large cut in appropriated funds. LSC ultimately decided to shut out two major operating divisions (the training division and the Research Institute) and to RIF (lay-off) half of its staff. It also decided to decentralize many of its other activities (training and technical assistance being the two most prominent). As a result, the Corporation was required to fund by grant or contract many activities previously performed by the Corporation.

In August of 1981, LSC had a remaining obligation of approximately \$50,000 under the contract with RGA. Since September 30 was the end of the fiscal year and unexpended amounts remaining in LSC accounts would be placed in a general

fund on October 1, OFS had to decide if it would preserve the \$50,000 to pay the remainder of the contracted amount after the end of the fiscal year. Two factors controlled the ultimate decision--1. the work on priority-setting was important and had to be completed from a programmatic perspective; and 2. RGA had an enforceable contract with LSC, and LSC was obligated for \$50,000 more to meet the contract terms. The only way to preserve the funds for these purposes was to expense them before October 1.

In order to insure that the funds that had previously been contracted for and obligated were in fact paid to RGA, OFS decided to make a one-time grant to the Legal Aid Society of Albuquerque for the remaining \$50,000. LAS of Albuquerque was selected because of its physical proximity to RGA, because RGA and the Board and staff of LASA had a close working relationship, and because LASA agreed to serve as trustee of these funds. The grant provided that RGA and LASA would enter into a contract that contained a memo of understanding as to how these funds were to be spent.

II. Why Was \$58,000 Added To The Program And In What Purpose Were These Funds To Be Utilized?

While negotiations with RGA and LASA were underway, LSC began the annual process of looking at all grant and contract accounts to determine what other funds might not be expensed by September 30. A review of all accounts produced a total of approximately \$58,000 in several different accounts which were established during 1981 but in which some funds still remained. The funds were unspent because of delays in allocation usually attributed to the uncertainty of LSC's future. The need for the projects was still present, and OFS wanted to make sure that the need was addressed. OFS then had decided to collect all of these unexpended funds into one

and to include the amount in the grant to LASA. The grant specified that \$15,000 should be utilized for technical assistance to programs (for example, training events, developing materials, conducting workshops and orientation sessions); \$10,000 for addressing program responses to reductions in funding (i.e., retrenching); and for additional priority-setting work (training events, information-sharing). The grant included special grant conditions and a work statement which described and controlled the manner in which LASA would allocate and report on these various amounts. The grant also provided in a special condition that all terms and conditions applied to any subgrantee of these funds.

There were also other events underway at LSC which led to a further amendment to the grant. During 1981, the LSC Board set aside an amount of one-time funds (mostly carry-over funds from 1980) for funding state support activities. OFS in 1981 instructed each Regional Office to conduct a competitive grant process within its respective region for these one-time state support funds. By September 1981, all Regional Offices had made their recommendations to OFS/HQ and grants were made to state support programs in those regions. However, three Regional Offices (New York, Philadelphia, and Denver) had not yet recommended the allocation of the entire amount. As with the RGA priority-setting contract, OFS faced the possibility of losing these funds for state support purposes if they were not expensed by September 30, 1981. OFS decided it could not allow that to happen for two reasons: 1. the LSC Board specifically set these funds aside for state support; and 2. commitments had been made to the state support community that these funds would be allocated for state support purposes. OFS was obligated to see that the needs and our prior commitments were met.

Therefore, LASA was contacted in September of 1981 to seek agreement that it would receive and hold these funds for LSC until decisions could be made as

to exactly which additional state support programs should be funded. LASA agreed and the grant was amended to add \$177,029 for state support funding, training and technical assistance. Besides funding the state support organizations as instructed by LSC (which was done in November of 1981), LASA was required to hold a certain amount of funds (\$66,000) for the payment of costs for state support conferences and technical assistance. As a result, payments were approved by LSC/HQ of approximately \$30,000 for a state support conference in Charleston, SC; a state support survey and needs assessment; technical assistance to individual state support units; and the production of a paper on the Interest on Lawyers Trust Accounts concept. All of these expenses were approved by OFS/HQ and reported on by LASA through the submission of quarterly financial reports to LSC.

III. Why Were Part Of The Draft Funds Utilized For NOSSU?

The \$36,000+ remaining from the original \$66,000 state support technical assistance category was designated by OFS for use by a soon-to-be-established national state support organization. During 1981, LSC and its Regional Offices through the provision of the one-time grants mentioned above and through the provision of technical assistance had been working to expand the scope and quality of state support services. Many new state support units had been funded in 1980 and 1981, and most of the older units had received increases in their funding levels from LSC. Early in 1981, discussions had begun among state support representatives about the need for the formation of a national organization that would coordinate various state support activities and provide a forum for state support representatives to meet and discuss issues of common concern. The fact that most other segments of the legal services community had such organizations (National Clients Council; National

Association of Indian Legal Services; Organization of Legal Services Back Up Centers; etc.) was perceived as an inducement for the establishment of such an entity. OFS was interested in the formation of such an organization because of LSC's decision to centralize operations in response to the reduction in appropriations. OFS believed that a national state support organization could assist LSC in providing technical assistance to state support programs, in designing and delivering training to state support staff and in coordinating discussions of critical issues about future activities of state support programs in the light of budget reductions.

In response to these developments, OFS decided that any funds remaining in the LASA grant after the initial round of state support work was done would be held to provide funding and support to the national organization that was then in the planning stages. The National Organization of State Support Units was founded in December of 1981, and LASA with OFS approval eventually made approximately \$36,000 available for specified activities (meetings, conferences, technical assistance, materials development, etc.). Among other activities, NOSSU sponsored and ran a conference for state support staff on Private Attorney Involvement in 1982 and conducted a survey on technical assistance needs. However, no grant was ever made to NOSSU -- the funds were set aside by LASA to reimburse expenses incurred in carrying out approved activities.

I believe that this fully explains the circumstances leading up to the grant to Albuquerque. This grant, just like all LSC grants, contained assurances and conditions that required compliance with the LSC Act, Regulations and Audit Accounting Guide, not only by the recipient but by any subgrantees. All of these grants have been audited (LASA audits for 1981, 1982 and 1983). These grant amounts were reported on to the LSC Regional Office in Denver on a quarterly basis by LASA.

Extensive financial records exist within LASA which document that these funds were utilized for the purposes they were intended and in conformity with the Act and Regulations.

In conclusion and in summing up my answers to the three questions, I reiterate:

- Rio Grande Associates and LAS of Albuquerque had a long-standing relationship with LSC. The people associated with both organizations were very experienced and nationally known and respected in all of these matters.
- The grant was made in order to insure that these projects were successfully completed with the appropriate safeguards attaching. Priority-setting, technical assistance, state support, and private attorney involvement were all critically important issues in 1981, and the LSC Board's decision to set funds aside for supporting programs in these endeavors was appropriate and productive.
- Funds were made available to NOSSU because LSC acknowledged the need for training, technical assistance, and information-sharing among the state support programs. Because training and technical assistance responsibilities were being transferred to entities outside of LSC, it was natural and appropriate that NOSSU would be designated as the entity with these responsibilities in the state support context. The funds made available to NOSSU for these activities have been appropriately and effectively utilized.
- By funding a recipient to carry-out these projects, the prohibitions in the Act and Regulations attached to all of these funds. Those prohibitions, as well as the grant conditions and assurances, applied to Rio Grande Associates as well. Because these grant conditions are more restrictive than those applicable to LSC contracts, LSC had even more protection than if it contracted directly with RGA.

The CHAIRMAN. I'm going to have to recess for just a short period of time so I can go up and vote in the Budget Committee. Let me recess until I get back; it will be about 5 or 6 minutes.

[Short recess taken.]

The CHAIRMAN. Let me just get this going again. I've got a lot of other questions on the Arango matter. I think that I'm going to do, because I've held you up so long, is to submit those to you; and if you'll button those down and answer them for me in writing, we can make the record that needs to be made on that particular issue.

Mr. BOGARD. Fine, we'd be delighted to.

The CHAIRMAN. OK. Now let me just ask you two more questions, and that happens to do with redistricting. Have Corporation funds, Mr. Bogard, been used to finance local program involvement in congressional and State legislative redistricting following the 1980 census?

Mr. BOGARD. I think Mr. Thimell can respond to that.

The CHAIRMAN. OK. Mr. Thimell?

Mr. THIMELL. Yes, Mr. Chairman, it appears that they have, perhaps, in Texas, California, and New Mexico.

The CHAIRMAN. Do you know to what extent they have been used?

Mr. THIMELL. In Texas, money was set aside to buy a computer and program that with the 1980 census data to prepare them to submit their own redistricting plans in Texas. In California, they submitted a proposal suggesting that they tie their survival efforts in California to the reapportionment issue with the idea that, by working on redistricting, they would win friends in the legislature who would then support them on the legal services survival.

The CHAIRMAN. Would you be kind enough to provide us with a complete report of the Corporation's involvement in these issues, say, within the next 2 weeks? Could you do that for us?

Mr. THIMELL. Yes, sir.

The CHAIRMAN. OK. If you'll give us a complete written report on that, I'm going to let you folks go.

I want to just personally express my appreciation, as chairman of this committee, for the efforts that you've put forth to be here today, the candor with which you've answered my questions. As you can see, I'm very upset about it. I happen to believe in legal services for the poor, but I happen to believe that when we put out millions and millions of dollars—and you're asking for \$325 million this year, this next year—when we put out that kind of money it seems to me the taxpayers ought to have that money well managed. Now, I understand these problems occurred before you got there, but I really want you to follow up on some of these things because it seems to me there are some very improper activities going on, and I think it needs to be stopped.

I want to compliment you for being willing to get involved in this and to dig down and try and find these problems. It reminds me a little bit about Reagan getting criticized for his big Defense budget because they found a \$9,000 hammer; and he said to me one day, he said, "Orrin, we're the ones who found it!" He said, "We're the ones who have really put the time in to find these things!" Well, that's what you're doing right now, and I just personally believe

Committee was going to have a hearing to investigate fund balances, National Support Centers and contracts/consultants -- all three being "sacred cows" to the legal services leadership. We now know why. A copy of my opening statement and the Minutes of that meeting are submitted herewith as Exhibit B.

Please note that I specifically stated in my opening remarks that the issue before my Committee was:

"is the present grant and contract process providing the most economical and effective delivery of legal assistance to the poor? If not, why not? If it is doing an adequate job, can that performance be improved in this grant/contract process."

Mr. Chairman, I am pleased that it was as a result of that meeting that the question of \$41 million fund balances/carryover's was discovered.

Unfortunately Mr. Chairman, it has been subsequently discovered that we were not told the entire truth about certain other funds at that meeting with reference to funds received by the National Legal Aid and Defender Association -- a key component of the Coalition.

The minutes reflect that Mr. Eisenberg, Executive Director of the NLDA stated, in response to my question regarding activities of grantees, that "overall the grants and contracts awarded by LSC had been kept within legal bounds."* We now know that may not have been quite the case.

In response to my question as to how much funding NLDA had received from LSC, Mr. Eisenberg stated that NLDA had received a grant for "technical" assistance totalling \$1,000,000.** However, information subsequently made available to your Committee Mr.

* May 10, 1982 Minutes, Page 7.

** Id.

Testimony of Clarence McKee
Vice-Chair of Board
former

to then indicate that, between 1981-1982, NLDA had received nearly \$1 million in LSC Grants -- exclusive of funds for the malpractice insurance program which it supplies for LSC program attorneys -- a practice which my Committee recommended should be investigated and I would urge you to do so.

Hence, even at the early date, we were misinformed in our investigative efforts.

Another glaring example of how we were misinformed occurred in October of 1982 at a Joint Meeting of our Committee on the Provision of Legal Services -- chaired by William Harvey, and my special Committee on Grant and Contract Procedures held in Indianapolis, Indiana. (Exhibit C). We had asked representatives of NLDA, the Coalition for Legal Services, Project Advisory Group and others to appear and discuss the function and funding of their organizations.

When Mr. Eisenberg of NLDA was asked by Board Member William Harvey about NLDA funding to the Coalition For Legal Services, Mr. Eisenberg stated that NLDA had provided only "\$5,000 over a two year period total".* Furthermore, Mr. Eisenberg stated to our committees that "there may be some in-kind" referring to in-kind contribution. However, a review of the NLDA Board minutes of August 1, 1982 -- which was obtained by this Committee -- shows that one month before the meeting the Board President, Jerrold L. Becker, told the Board that NLDA had provided the Coalition between \$20,000 - \$30,000 in legal services in both 1981 and 1982. The minutes also reflect that the Board moved to pay up to \$10,000 for the Coalition's 1982 operating bill. Again we were not quite given the facts.

* Page 152 of October 16, Transcript.

** Id.

continued

The transcript of our October meeting reveals that there was no question that LSC funds were going to these outside groups for a variety of purposes -- not for providing direct legal assistance to clients -- and the sources and use of those funds was a well guarded secret within these groups.

Another area where our Board was not totally given the facts and caused us to operate in a vacuum, was in the area of transfers of funds. On March 5, 1982, the Board of Directors adopted a resolution regarding funding procedures. Under that resolution, no new grant or contract obligation to recipients was to be incurred pending further actions by the Board. The LSC President was directed to ensure that no recipient funds be transferred to any entity other than the recipient without the prior, written approval of the corporation. The President was further directed to investigate past instances of such transfers and report to the Board regarding such transfers.

In a memo to the regional directors dated March 15, 1982, Mr. Clinton Lyons had asked the regional directors to inform him by April 16, 1982 whether or not any recipient within particular regions had transferred corporate funds to other entities since January 1, 1981. A transfer was to include any grant or contract in excess of \$5,000 between the recipient and another entity by which the other entity would conduct activities which normally would be undertaken by the direct LSC grantee. In a memo dated June 30, 1982, which I have subsequently been able to read and which was not available to me in 1982, sent to all regional directors by Mr. Askew he stated: "as you know, current corporation policy does not require prior approval for the transfer of funds by recipients to another entity.

... matters have been left to the discretion of local boards and managers consistent with the acts and regulations...." The entire matter of lack of accountability in the history of this Corporation is a matter addressed by my Committee and which needs thorough review by the present LSC administration as well as this Committee. Mr. Askew's memo further outlined a list of transfers which were found to have occurred. These included a \$62,000 transfer of funds to a subrecipient called Advocacy, Inc., \$25,000 to a juvenile law center, \$98,000 to the Alabama Council of Human Relations, \$100,000 to the Poverty, Education and Research Center, and \$104,000 to the Grant Legal Action Program, Inc. and the Farm Worker Justice Fund, Inc. Earlier, in April of 1982, Mr. Askew had received a memorandum from the Denver Regional Office listing several transfers of funds through contract or agreement including the following: \$20,500 to be paid in semi-monthly installments for a variety of services including representation of clients before state legislative and administrative agencies; \$20,500 paid in the same manner for the same purposes; a \$100,000 contract from the Texas Legal Services Center with the Poverty, Education and Research Center, Inc.; and an \$111,000 contract to the Texas Rural Legal Foundation, Inc.

Mr. Chairman, many of these contracts could have been very well meaning and they could have been initiated without any intent or design to subvert the legal services Act or to "squirrel" funds. However, the real issue here is the fact that such funds were transferred without any control mechanism or structure whereby the Washington Headquarters of Legal Services Corporation was informed. What importantly in terms of our discussion, is the fact that, to the best of my knowledge, no member of the board of directors of

1982, and particularly myself or any member of the Committee on Grants and Contracts Procedures, was made aware of such transfers.

As you review the May 10th hearing which I conducted on various issues, you will note that a specific area of inquiry was "contracts/consultants". Keeping in mind that it could have been interpreted that all that we were looking for were contracts directly from our corporation headquarters to outside contractors, it seems to me that given the newness of our positions that any intelligent reflection upon the information that we wanted would have required that we were to be informed of all contracts and grants of this nature, particularly when it was in response to a Board request for information. At no hearing of any of the Board Committees, to the best of my knowledge, was this information given to the Board.

Given the fact that the existing regulations of the Board at that time did not require any prior approval of these transfers, it seems only natural that, in the Joint meeting of the Committees in October, that our discussion with the regional directors from the Chicago, Denver and Seattle and Northern Virginia Regional Offices, would have elicited information regarding how the regional office functioned in terms of such funds, -- especially since only a few months earlier there had been a request from corporation staff on this matter to Regional Directors. However, the issue was never raised by any Regional Director who was present and, because we and the Board knew nothing of such transfers, we of course did not ask.

It is very clear that if the members of the Board conducting various hearings throughout this country had not taken an inordinate amount of time reviewing pages and pages of documents on our own

that were available, we would not have compiled the vast record that we did. I particularly wish to commend members Harvey and Olson for their diligence and hard work in pursuing these matters at these hearings. Indeed, as you have certainly discovered, we were only able to barely scratch the surface. For that little bit of scratching we were able to accomplish much in that short period of time. For that, we were criticized for being "against the poor" and for trying to abolish the program. We wanted to look into the concept of national support centers as we did in my hearings in the state of Mississippi in August of 1982 (Exhibit D, attached). The "cry" came out in the Legal Services Community that we were trying to destroy national support centers.

Mr. Chairman, I could not discuss this matter today without making reference to our final board meeting in December of 1982. First of all, you should realize that when Mr. Olson and Mr. Harvey appeared before the House of Representatives, they were highly criticized because we decided to have our final board meeting at the Hyatt Regency Hotel in Washington, D.C. What Mr. Harvey and Mr. Olson did not tell the Committee at that time because they did not know that it was necessary, was the fact that one of the main reasons for taking that hearing to the Hyatt Regency was the need for additional security due to threats against the life of at least 12 members of the Board as well as Mr. Bogard, and his family. I am enclosing a copy of the transcript of that hearing as Exhibit E in your records so that you will be able to understand exactly under what circumstances and atmosphere we had to conduct and carry out our duties. There were outbursts from the audience, profanities directed by attorneys from the legal services program, and there

ADDITIONAL QUESTIONS FOR MR. BOGARD

Q: As I understand, Mr. Arango originally was given a contract for \$110,000 of which \$50,000 was not expended by the end of FY 1981. When his contract was extended for FY 1982, why was it increased to \$110,000?

A: In November 1980, John Arango of Rio Grande Associates was given a \$114,000 contract to assist LSC field programs in "experimental priority setting." However, in February 1981, Arango told Hulett "Bucky" Askew, Deputy Director of the Office of Field Services (OFS), that he could not spend the \$114,000 within the contract period. So Askew extended the contract to April 1982. This apparently conflicted with the LSC Board directive that all 1981 one-time funds (those which Arango was contracted) be spent by September 30, 1981. If LSC staff was unable to spend these funds then the Board would have to include them in their FY 1982 budget. Askew solved this problem late in August 1981 by granting \$50,000 (balance of the Rio Grande contract) to the Legal Aid Society of Albuquerque (LASA) who would then contract with Rio Grande.

expire the LSC Board directive, by September, 1981 3-4 million dollars in 1981 one-time funds still remained unspent in LSC headquarters. So the staff had to move this money quickly or allow the Board to reallocate it. LSC officials decided to solicit state support proposals for a large portion of these funds.

Unfortunately, the Denver, New York and Philadelphia Regional Offices of LSC failed to process the proposals quickly enough to enable the grants in their regions to meet the September 30 deadline. So Walker Thompson, State Support Coordinator for the Office of Field Services, called John Arango in mid-September 1981 to request that Arango accept additional monies through a LASA grant to fund these three regions' state support proposals.

Arango protested that he knew nothing of state support activities and that he didn't want to be responsible for processing these expenditures or be an LSC subgrantee. But Thompson assured him that Askew and Thompson would administer this grant and they would tell Arango when to send which programs what amounts of money. Thompson assured Arango that he would retain his contractor status with LSC. In effect, Arango was to be a check-writing machine. Arango says he acquiesced, based upon these assurances.

LASA Director, Steve Granberg, was informed of LSC's desire to grant this additional money to Rio Grande Associates through LASA. Granberg didn't want the legal and financial responsibility for these funds either, but was given the same assurances as to oversight responsibility that were given to Arango. Additionally, Granberg was told that LASA could keep the interest earned on the \$303,204 grant as a bonus. Granberg and his board say they agreed to accept the grant as "favor" to LSC.

The grant which was given to LASA allocated the \$303,204 in seven tasks: Tasks I-IV added \$58,875 to Arango's current priority setting contract; Task V provided LASA the aforementioned \$50,000 balance of Arango's contract; Task VI set aside \$177,029 for state support activities; and Task VII gave \$17,300 for technical assistance on project director selection. Arango claims no advance knowledge of the \$58,875 addition to his contract and there are no records within LSC to explain this addition.

What is the National Organization of State Support Units (NOSSU)?

The National Organization of State Support Units (NOSSU) was created in December 1981 to coordinate and focus the activities of the newly-expanded state support network. NOSSU would serve as liaison between the state and national support centers to help develop a unified national strategy on block grants, budget cuts and substantive changes in poverty programs. NOSSU is also the official spokesman for continued state support funding.

1. NOSSU receive funds from the grant being administered by Arango and, if so, how much?

2. \$36,875 was set aside from the Arango grant for the initial NOSSU expenses. Most of the money has been spent on the salary and expenses of Dick Skutt, the original director of NOSSU. As of March 7, 1984, \$2,112.82 remain in the NOSSU account.

3. Were Corporation officials involved in the formation of NOSSU?

A: According to John Arango, Walker Thompson called November 24, 1981 and instructed him to set aside approximately \$34,000 remaining from the state budget for the use of NOSSU. (The final figure of 1981 was not known until July 1982 when Arango paid outstanding bills and Askew called to confirm the transfer.) As Thompson explained it to Arango, NOSSU would use this money to lobby LSC for continued funding for its support. (As State Support Coordinator, Thompson was the LSC official whom NOSSU would lobby.)

NOSSU needed more than money from LSC, it needed leadership. Askew noted at a meeting in November of 1981 that:

NOSSU is leaderless & needs someone to tell them what to do--VG [Victor Geminiani, Atlanta Regional Director] might consider an offer to do it if approached (talk to [Dick] Skutt [Director, Michigan Legal Services] & Leanna [Hart Gipson, Chairman of NOSSU and Director, Tennessee Association of Legal Services].)

Geminiani did not, however, take the NOSSU position. This problem was not solved until May of 1982 when Dick Skutt was selected for the post.

According to earlier testimony, \$106,000 of the \$300,000 administered by Mr. Arango was given to a variety of state support activities. Would you explain what activities were funded?

The grant was modified by a memorandum of understanding between LASA and LSC which was signed in early October 1981. This agreement directed LASA to assist state support projects in "implementing a coordinated approach to the legal issues arising out of the implementation of block grants, related programs and other Federal assistance programs. The recipient was also to "assist legal services programs and eligible clients in addressing significant substantive issues, and ... become more economic and effective in the delivery of legal services. However, the final statement in the agreement defined the state support projects to be undertaken with this grant as "any activity approved by the Director of the Office of Field Services of the Legal Services Corporation or his designee prior to or before November 30, 1981."

Keeping with the instructions of Bucky Askew and Walker Thompson, LASA contracted with Rio Grande Associates to carry out the tasks described in the grant--except for the project director selection function which was given to Wayne Pressel, another long-time LSC consultant. (Pressel apparently had a separate agreement with Messrs. Askew and Thompson.)

The agreement between LASA and Rio Grande Associates explicitly stated that the state support activities undertaken were to be at the sole discretion of the Director of OFS. So Arango had the money, but the officials kept control.

In January 1982, Arango gave large advances to state support projects whose proposals were approved by the

One of Arango's first grants was to the Northern New Mexico Legal Services Project (NNMLSP). It was given \$17,000 for the following three purposes:

1. Jail conditions lawsuits,
2. Redistricting advocacy as a result of the 1980 census, and
3. Continuation of statewide advocacy efforts on behalf of clients on issues arising out of changes in Federal programs for the poor.

NNMLSP has held numerous training sessions on how to prepare and pursue jail conditions lawsuits for legal services workers throughout New Mexico.

In 1982 NNMLSP successfully challenged New Mexico's reapportionment plan and was subsequently awarded \$95,000 in attorneys fees.

Rio Grande Associates awarded the Greater Upstate Law Project (GULP) \$34,000 to sponsor a March 1982 conference in New York City on "Strategies and Substance for the 80's" which was attended by 174 legal services advocates, community organizers, labor activists and political figures.

The conference, though sponsored by GULP, was planned, organized and executed by Salvador Tio, LSC New York Regional Director. Tio's objectives were announced in his conference call of February 28, 1982:

As all of us know, the proposed new federalism is a juggernaut designed to do away with many of the substantive rights and benefits we have litigated on behalf of our clients. It further compounds an already critical situation and will adversely affect the pocketbooks of poor people and essential services inherent to any society which aspires to be a just one.

It is fitting that we set aside the time to assess how these changes of immense proportions will change the lives of the people we represent and the new strategies we may undertake on their behalf.

The three days in March we are requesting you, members of your staff, and the general community to set aside for these discussions will bring together approximately 200 persons from all parts of this region. We will all jointly explore the historical context we are in, assess the present crisis of unmet human needs, develop strategies designed to satisfy them and test them against the reality of our limitations.

We also believe this conference will enhance our capacity to act in a more unified manner as a bulwark against future attempts to further undercut the rights of the poor.

Gary Bellow, Executive Director, Legal Services Institute, prepared a speech for this conference in which he elaborated on this theme:

Needless to say these are terrible times. Deregulation, reindustrialization, the new federalism--all code words for a systematic dismantling of the social gains of the last thirty years--are only the public expression of corporate America's larger program of upward redistribution of wealth and power in the next decade. There is no doubt who is going to pay to 'make American industry competitive again.'...

In these circumstances, there is surely a certain helplessness (and frustration) that accompanies asking, as we are here, what a small number of legal services workers can do.

Nevertheless, this is precisely what we should be asking each other. Without minimizing the difficulties, it seems clear that the most important item on the liberal-left political agenda today is resistance--day-to-day actions and challenges, even in the face of narrowing options, and the absence of a clear vision of alternatives.

Bellow defined their "liberal-left political agenda" thus:

(Most of us agree that (i) America maintains a deeply stratified class system; (ii) changing this system, and its most recent manifestation in Reagan conservatism, is a primary concern of most of us who do legal services work...

The attendees were then given several suggestions on how legal services could work to effect this change. What follows are samplings of Bellow's ideas:

We need to expand the number of poor people we help.

I realize that, given the cutbacks and prevailing feelings of overload, this suggestion seems mad. Nevertheless, my own judgment is that in these times fostering real resistance among our clients and in the communities in which we work require regular direct contact with very large numbers of people. Done properly ... such contact can (i) increase people's sense of grievance and entitlement; (ii) identify potential activists and community leaders; (iii) uncover and encourage opportunities for collective action (tenants unions, neighborhood groups); (iv) spot exploitive practices of agencies and individuals that can be prevented or modified by exposure or focused legal and political action. Each of these efforts, carried out in any significant numbers, can make important contributions to fostering the sort of liberal-left oriented community based politics which is needed to respond to the problems of the eighties ...

We need to enlarge eligibility to include the near-poor and low-income working people in the population and groups we serve.

Again, I understand the very difficult trade-offs in this proposal. Given limited resources, less people in the most dire financial circumstances will be served.

Nevertheless, if you share my view of the centrality (to our own work and to any effective responses to Reaganism) of community based coalition-oriented struggle in a mass left-liberal politics in the eighties it just doesn't make sense to draw sharp lines between the poor and the near-poor in the way we have...

Bellow explained that his coalition-oriented struggle required

... linkages between and within the women's movement, anti-racism coalitions, the union movement, and a wide range of environmental anti-nuclear and other groups. I believe the divisions are not as deep as they appear, and that the right's coalitions are far more fragile than they seem, but there is a great deal of evidence to the contrary...

we need to make internal political education an important priority in our work

The locus and reality of legal services work is the reality of class politics in the United States. The community work to which I want us to connect requires us to confront our own views and attitudes toward class, racism and gender because the work is inevitably embedded in, and constituted by those concerns.

Bellow closed his speech by challenging these activists not to let their dreams die: "The mega-realist forgets too soon, not only how to dream, but the energies that dreams release. If Bobby Kennedy who asked why not, and most of us would have followed him anywhere."

Following this day of speeches, the participants broke up into small groups to discuss four "crisis situations" (welfare cuts, the plight of the homeless, plant closings and unsafe public housing projects), and background materials were distributed and discussed. Typical handouts included:

Time-Honored Disguises & Borrowed Language

Looking ahead into the 1980's, there are many things from which we can take encouragement. The program of the right, the Republican right, the organizational right and the corporate right cannot and will not solve any of the problems which the country now faces. They may be organizing faster than we are at the moment, but it is based on illusion. The only organizations in America which actually improve people's lives and economic conditions are the citizen organizations, the women's organizations, the organizations of minorities, the senior organizations and the trade unions. Even today these organizations represent a powerful force. Potentially they represent a majority coalition which the right wing cannot hope to equal.

o Economic Notes--Focus on Women Workers

Through all their adult lives, the inferior status of women envelops and degrades both sexes in sexism, in pornography, rape, denial of rights to abortion, wife battering, sexism in advertising, denial of credit--endless forms of inequality.

The burdens of child bearing, child rearing, cooking, laundering, cleaning are still shouldered almost exclusively by women.

o Millions Robbed. Reagan Hoods Suspected

The government's economic policy is making most Americans poorer. It is cruel. And it is leading to economic disaster.

o Plant Closings Bulletin

Finally, as we go about organizing against plant closing, we must keep in mind the relationship between plant closings and other public policy issues. This issue is exciting for the democratic left, not only because it offers us an opportunity to build broad, community-based coalitions, but because it offers us an opportunity to ask the fundamental questions about the nature of capital and the inordinate power given to those who control it. Bringing these questions to the forefront of the national political debate would be a critical step towards [sic] rebuilding a broad-based American socialist movement.

Participants concluded the conference by developing strategies and forming task forces to fight the "Reagan right" within their local communities.

Colorado Coalition of Legal Services Programs received \$10,000 from Rio Grande to "provide advocacy on behalf of the poor on issues arising from changes in federal programs for the poor. The Coalition hired Daniel Taubman, formerly of the Center on Social Welfare Policy and Law, to undertake this activity.

Rio Grande also spent at least \$15,000 in support of a November state support training conference in Charleston, South Carolina. The prevailing theme of this conference was how to continue lobbying despite upcoming Congressional restrictions. Several papers were prepared and disseminated in Charleston.

John Rodgers, Executive Director of the Massachusetts Law Institute, acknowledged that:

Recent activity makes it clear that sizeable majorities in both house of Congress do not believe the federal government should be funding legislative advocacy for poor people.

However, he continued,

Legislative advocacy is becoming increasingly critical for poor people, particularly at the state level. We must find ways to keep it going and even expand it. Two essential approaches to this end are evident. Legislative advocacy will have to be carried on outside an LSC grantee and funding sources must be found which are impervious to attack or retaliation by government.

So Rodgers offers the state support centers a suggestion.

You can set up a second nonprofit corporation, which will not be the LSC grantee, to do lobbying and other activities banned or restricted by the LSC Act. Your legislative advocates could set up their own practice, which could take the form of a for-profit corporation, a partnership or a professional corporation. Or, you could choose to engage an existing firm that does lobbying.

You will, of course, want to ensure that the advocates follow the priorities and directions of your program and its clients. This might be done through a consultant contract with the outside entity or through staff and client representation on the governing body of that entity.

We learn in an addendum to this paper that several state support centers (notably Indiana and Tennessee) have taken Rodgers' advice. They

decided to conduct their future legislative advocacy through former staff members who will set up independent offices and will attempt to secure new funding with the help of broader coalitions of people and groups interested in similar issues. These other organizations may in some cases pool their money and fund-raising efforts to build up enough to compensate a core of lobbyists.

Should that idea not work, Rodgers offered a number of other ways to keep lobbying despite Congressional restrictions:

Use of 1981-Derived Funds--1981 LSC or privately generated funds might be advanced to an outside legislative advocacy office under a contract to provide or carry on legislative activities for clients during 1982. If the private funds were committed before 1982, anyone trying to claim its illegality should have a hard time succeeding because the only applicable restriction is 1010(c), and if the funds are already committed by 1982, they are not available to be restricted for legislative advocacy use.

The argument for the legality of an advance of 1981 LSC funds is harder to make. On the one hand, they would be committed and therefore not a carryover balance after December 31, 1981. On the other hand, it is not clear that a legal services program can validly tie up LSC funds for a period beyond the end of the current grant year. On balance, it seems worth a try if there are no other alternatives for funding the needed funds for an effective 1982 legislative effort.

Staff Lobbying on Own Time--Staff could perform lobbying activities during breaks or during time not counted as work time. This possibility was mentioned approvingly in the debate in the House.

Poor People's Political Action Committee--PAC's are very common now and are usually authorized and regulated by state law. In Massachusetts, a Poor People's PAC has been set up with its board consisting of a majority of clients. It will raise funds through direct mail and through approaching other groups such as unions and other PAC's for larger contributions. Most of the proceeds will be devoted to lobbying activities for poor people through the firm that has been doing legal services lobbying for the past year. Legal services staff could also be asked to make personal contributions to this effort.

Russ Murray, Alan Houseman's deputy in the Research Institute, came to Charleston to push a narrow, specific proposal. State and local taxes must be raised to avoid "forthcoming revenue shortfalls and to prevent drastic benefit and service cuts. How could this be achieved?

Legal services advocates should avoid like the plague, a reactive posture. Tax policy is like football in that the best defense is a great offense. One should assume that any tax package evolving from the present "players" in your state (legislators, governor, business lobbyist, and state agency officials) will be a poor one. You must promote and encourage discussion of a more positive tax package...

Any attempt to influence tax policy should be viewed like a political campaign. Perhaps the most important task is to promote the exposure of your "candidate." Referencing the active rather than the reactive theme noted above, it is essential that you do your utmost to assure that your agenda is at least before the public. If you spend your time reacting to the "terrible" proposals of the opposition you have already lost the battle.

Therefore, the support centers should communicate with the following groups to promote broad support for their "candidate."

Friendly legislators--This is obvious and the more influential the better.

Allies--Most of the community groups that you have worked with on other legal services issues will probably not be interested in state tax issues. However, if they have a method of communication with their membership, that mechanism can be used to expose their membership to the state revenue issue and to promote proposals which would have a less negative impact upon low income people.

Russ Murray, Alan Houseman's deputy in the Research Institute, came to Charleston to push a narrow, specific proposal. State and local taxes must be raised to avoid "forthcoming revenue shortfalls and to prevent drastic benefit and service cuts." How could this be achieved?

Legal services advocates should avoid like the plague, a reactive posture. Tax policy is like football in that the best defense is a great offense. One should assume that any tax package evolving from the present "players" in your state (legislators, governor, business lobbyist, and state agency officials) will be a poor one. You must promote and encourage discussion of a more positive tax package...

Any attempt to influence tax policy should be viewed like a political campaign. Perhaps the most important task is to promote the exposure of your "candidate." Referencing the active rather than the reactive theme noted above, it is essential that you do your utmost to assure that your agenda is at least before the public. If you spend your time reacting to the "terrible" proposals of the opposition you have already lost the battle.

Therefore, the support centers should communicate with the following groups to promote broad support for their "candidate."

Friendly legislators--This is obvious and the more influential the better.

Allies--Most of the community groups that you have worked with on other legal services issues will probably not be interested in state tax issues. However, if they have a method of communication with their membership, that mechanism can be used to expose their membership to the state revenue issue and to promote proposals which would have a less negative impact upon low income people.

Media--You should assume that without some outside influence the media will only report upon the proposals set forth by the traditional, influential groups in the state.

Labor Unions--If your proposals are acceptable to labor, you may be able to use their membership communications to inform them of the issues and the most satisfactory methods of raising any additional state revenues.

Business Groups--This is not a tongue-in-cheek remark. Those of you who are familiar with how tax policy is formulated at the state level know from whence came the cliché, "politics makes for strange bedfellows."

How can taxes be raised? Murray gives several options:

Sales Tax--the expansion of the coverage of sales tax can be oriented toward those services used primarily by higher income taxpayers.

Corporate taxes--Most important is to prevent the adoption of depreciation rules which will lead to significant revenue losses from the corporation tax.

In those states where the depreciation rules are adopted automatically, compensating increases in corporate tax rates could be proposed to offset the losses.

Several states, including Connecticut and New York, have enacted gross receipts taxes upon oil companies. This is an option in some states where the oil lobby is not all-powerful and the consumer outcry about oil company profits has not subsided.

Severance and production taxes--again this is dependent upon the clout of the oil and mining companies as well as taxpayer susceptibility to populist appeals to tax the corporations. North Dakota enacted a significant oil and gas extraction tax last year so it can be done.

Improved Collection Procedures and Cash Management--More frequent collection of certain business taxes to improve the cash flow to the state and increase the opportunity for greater interest income.

Excise or "Sin" Taxes--Cigarettes, liquor, and gasoline tax rates can be increased. Or the tax can be changed to an ad valorem rate, a percentage of the price like the sales tax.

Income Tax--Rate Increases-

Restructuring of the rate system. This may include imposing progressively higher tax rates at relatively high income levels. . . . For example in Kentucky and Missouri, the top rate is triggered at taxable income levels of \$8,000 and \$9,000, respectively. In these states, higher tax rates at higher taxable income levels (\$30,000 - \$50,000) could be imposed. In those states with indexing, consideration should be given to "watering down" the present formula so that the effects upon state revenues is minimized. Indexing can be very expensive. . . .

May closed with this reminder:

We are seeking an opportunity to influence the policy making process for two reasons. One, so that the worst possible tax packages is not adopted. And two, to assist the enactment of some tax package so that the state's fiscal crisis is not resolved by draconian reductions in those benefits and services received by legal services clients. With hard work, a cooperative media, and incredible luck you may even succeed. Good luck.

is Armstrong of the Mississippi Legal Services Coalition

shorted the state support centers to influence the block grant

ness:

The Governor's office of Federal-State Programs is conducting public hearings across the state during the month of November. Recipients, providers, and any interested citizen will have an opportunity to present ideas and suggestions on how the Block Grant funds should be used. This may be our only real change to impact the Block Grant implementation process because you know how the Mississippi Legislature feels about poor and oppressed people.

Many times in the past we have worked to turn people out for a hearing or a meeting, or a workshop or something. But this time it is important that we let the Governor and the State Legislature know how we feel about who should be served, who should serve and how people are to be served. We need at least 1,000 people at each hearing.

You must get as many church groups, social groups, fraternal organizations and individuals to attend these meetings as possible. You will make the difference. If we do not attend these hearings and voice our opinions then they will say we are not concerned - and they will be right.

Faced with such dire straits, clients needed ideas on what to say at these block grant hearings. So Armstrong provided a number of examples:

My elderly mother can stay in her own home with the help of a homemaker and a visiting public health nurse. If this stops we may have to put her in a nursing home. I have to work to support my family and can't quit work to take care of her.

My elderly father lives with us but goes to adult day care every day. His mind is bad and if he is left alone he wanders off from home and gets lost. With day care for him I can still work and support my family. Otherwise either I'll have to quit or my high school daughter will have to stay home to look after him.

When the day care center opened up I was able to put my children there in a good safe place and get myself a good job. If it closes up, I guess, I'll have to quit work and go back on the welfare.

My wife is expecting our second child and I just lost my job. I can't pay expensive hospital and doctor bills. Where can we go for health care?

I am pregnant and have a history of miscarriages. I don't have Medicaid. Will the Health Department be able to give me prenatal care?

I have a handicapped child. The day care center has done wonderful things for her and taught her a lot of things that I could not do at home. I don't know what I'll do if [sic] it closes down.

I now have Medicaid but will lose it because I work. My child has colds and pneumonia a lot and I don't have health insurance on my job. Where can I take him when he gets real sick? I can't afford a private doctor.

My teenage daughter has been getting help for a drug problem from a mental health center. Will this kind of service continue with the budget cut and block grant?

Will the block grants help us get better mental health service for children? My 13 year old has severe emotional problems and we can't afford a private hospital for her.

The Legal Aid Bureau of Baltimore received \$18,000 from Arango to undertake an analysis of change in the areas of (1) Health and Social Programs; (2) Housing; and (3) other programs that affect the poor." According to their workplan, after completing this review, the Legal Aid Bureau would "develop strategies for influencing distribution and administration of funds." The project would conclude with the "compilation of results of materials into a manual for distribution to low-income and community groups.

Legal Services of New Jersey received \$18,000 from Arango to partially fund a statewide litigator. The remaining costs of this position (approximately \$31,000) were to be borne by the other New Jersey program.

Arizona Statewide Legal Services Project received \$5,000 to update their Arizona Legal Services Practices Manual.

The Texas Legal Services Center received \$10,000 to "coordinate" program's state level advocacy efforts on behalf of clients issues arising out of changes in federal programs for the poor." Under their workplan, TLSC agreed to "develop written reports outlining the likely effects of changes in federal state law and policy on poor people in Texas;" "inform program staff and clients about activities of other advocates by telephone contact, mailings and newsletter articles;" and "disseminate information on advocacy strategies by telephone mail, or by publishing articles in the newsletter." TLSC contracted with Karen Langley and Clarence Johnson, former program employees now associated with the Poverty Education Research Foundation, to perform these activities.

Has the Corporation received audit reports on the activities funded with the funds administered by Mr. Arango? If so, would you make copies of these reports available to the Committee?

Grant Condition 6 required LASA to "submit to the Corporation written reports describing its activities and progress and stating its grant expenditures for each of the tasks covered by

its grant." However, such reports have not been made. Arango is prepared to submit reports on his activities under the technical assistance task, but says he does not know enough to report on the state support activities. Moreover, based upon their understanding with Walker Thompson and Bucky Askew, neither Arango nor Granberg feel responsible for the state support activities.

- Q: Under existing law, is it permissible for the Corporation to fund organizations which lobby the Corporation?
- A: Nothing in existing law would prohibit the funding of the Corporation of organizations which lobby the Corporation. In fact, programs regularly "lobby" the Corporation through comments on proposed regulations, pursuant to the terms of the Act (§1008(e)).
- Q: Under existing law, can the Corporation initiate the formation or act as an organizer or initial financier of an association, federation or some other entity?

The prohibition against the use of LSC funds to initiate the formation or act as an organizer, etc., of associations, federations or other entities is contained in §1008(e) of the Act. The relevant language states:

(b) No funds made available by the Corporation under this title, either by grant or contract, may be used -

- (7) to initiate the formation or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients; (emphasis supplied)

It should be noted that the prohibition is directed toward grantees or contractors - recipients of LSC money - rather than the Corporation itself, and there is an exception to the prohibition to allow the provision of legal assistance to eligible clients.

The legislative history appears to be silent on the issue of whether the Corporation itself can do what is prohibited to recipients. However, in the early days of the Corporation, at a time when it was establishing new programs, it probably carried out just such activities many times. The plain language of the relevant section of the Act indicates it is not improper for the Corporation to do so.



NLADA
OFFICE
WASHINGTON

Mr. Hatch
April 1, 1984

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April 1, 1984

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April 1, 1984

Mr. Hatch
April 1, 1984

Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

The following are the responses of the National Legal Aid & Defender Association to questions posed in your May 22, 1984, letter to me.

- Please list each grant or contract, including a description of the purpose of the grant or contract, the total cost of the grant or contract, and the status of the grant or contract, which was awarded to the National Legal Aid and Defender Association (hereinafter NLADA) by the Legal Services Corporation (LSC) in 1980, 1981, 1982 and 1983.

Response

In 1980, NLADA received an LSC grant in the amount of \$57,943 to conduct the Access to Justice Project. The purpose of this project was to maximize the ability of legal services clients to pursue their claims in Federal courts. In 1981 and 1982, LSC granted additional funds of \$186,757 and \$5,000, respectively, to NLADA to continue to conduct the Access to Justice Project. No further funds were awarded to NLADA for the Access to Justice Project, and that Project was completed in early 1983.

In 1981, LSC made two grants totalling \$1,040,000 to NLADA for five new projects. The amounts, purposes and status of those grants is described in Attachment #1.

In 1981, LSC also contracted with NLADA to have NLADA conduct public affairs training for legal services programs and to provide a Public Affairs Training manual. The contract was \$12,000. A grant of \$2,000 was also made by LSC to NLADA for the Law Firm Resources Project, the purpose of which was to develop links between law firms and legal services programs. The public affairs training manual and the Law Firm Resources Project were completed in 1982.

No grants have been made to NLADA since 1982.

2. Please provide a copy of every financial progress or status report prepared in conjunction with the grants or contracts listed in response to Question 1.

Response

The reports requested are provided as Attachments #2 through #14.

3. Has NLADA provided to the Corporation all financial and progress reports required under the terms of the grants awarded to the Association by the Legal Services Corporation? If not, why not?

Response

Based on its understanding of the terms of the grants, NLADA believes that it has complied fully with the financial and progress reporting requirements.

4. During the fall of 1981, the Legal Services Corporation solicited a series of grant proposals from the Association which resulted in the Association being awarded an estimated \$2.2 million in grants. Please explain NLADA's involvement in the awarding of the grants?

Response

The only way in which NLADA was involved in the awarding of the grants was to respond to LSC's request for proposals.

5. During a recent hearing before the Committee on Labor and Human Resources, witnesses testified on behalf of the Legal Services Corporation that they have been unable to conduct a monitoring visit with respect to funds provided NLADA by the Corporation. As I understand, the Association has just permitted a Corporation auditing team to begin a monitoring visit. Why did the Association refuse to allow the Corporation to conduct an audit in the past? Secondly, what developments caused the Association to change its position and allow the Corporation auditors to begin monitoring visit?

Response

NLADA did not "refuse to allow the Corporation to conduct an audit." NLADA responded to the request for an audit by inviting LSC to conduct the audit at the same time as NLADA's independent audit for fiscal year 1983 was being conducted. LSC never responded to that invitation. Later, LSC requested a monitoring visit. The use of the terms "monitor" and "audit" interchangeably in your question exemplifies one of the issues that did, in fact, give rise to some delay in LSC's monitoring visit. LSC refused to enter into a dialogue to clarify this issue, which was directly related to the status of the grants. LSC also declined to set forth any meaningful guidelines for monitoring NLADA, which is not a "recipient" of LSC funds, as that term is defined in the Act. From NLADA's point of view, the LSC approach was openly adversarial and caused misunderstanding and delay. However, as noted in your question, all that is now moot: the monitoring has taken place.

6. Please explain the circumstances leading to the hiring of Clint Lyons as Executive Director of NLADA.

Response

Members of the Board of NLADA learned of Howard Eisenberg's intention to resign as Executive Director in late January, 1983. Mr. Eisenberg formally submitted his resignation to NLADA's Board on February 6, 1983. The Board set up a search committee to find, and on February 20, 1983, began a national search for, a new Executive Director. Over 200 applications were received and screened. Six finalists were interviewed, of whom Clint Lyons was one. Clint Lyons was selected as Executive Director by a unanimous decision of NLADA's Board of Directors on May 1, 1983, because of his superior qualifications for the position. Mr. Lyons' appointment became effective June 7, 1983.

7. Please explain the circumstances leading to the hiring of Huellett Askew as a consultant to NLADA?

Response

Mr. Askew was hired as a consultant to NLADA on September 7, 1983, to work on a privately-funded grant. For approximately four months prior to that, Mr. Askew performed volunteer and pro bono work for NLADA.

8. Please provide a list of the names of all individuals who have been retained as consultants by NLADA under projects funded by Corporation grants or contracts, an explanation of the services provided by each individual and the cost, if any, of these services?

Response

NLADA has a practice of providing this information only to the funding source. This information was provided to LSC during its monitoring of NLADA.

9. Under projects funded by the Corporation awarded to the Association, has NLADA commissioned or funded legal services activities or funded involvement in legal services activities in the continental United States? If so, please state what has been funded and the cost of each funded activity.

Response

Pursuant to the Legal Services Corporation Act, LSC funds programs that provide legal services in all fifty states, as well as United States territories and possessions. A search of NLADA's project records indicates that NLADA projects funded by LSC provided the following assistance to programs outside the continental United States:

- a. Legal Services of the Virgin Islands -- development of strategic planning to meet program's goals and priorities (1982) -- \$6,853.43.
- b. Access to Justice Project -- workshop at 1980 NLADA Conference in San Juan, Puerto Rico, on access issues; staff travel and per diem only (1980) -- \$1,578.
- c. Micronesian Legal Services Corporation, Guam Legal Services Corporation and The Legal Aid Society of Hawaii -- training of program paralegals in Honolulu, Hawaii (1983) -- \$7,742.47.
- d. Puerto Rico Legal Services -- technical assistance on labor management issues provided by Leadership Project; staff and consultant travel and per diem only (1982 and 1983) -- \$1,552.73.
- e. Alaska Legal Services -- training for program managers (1983) -- \$1,413.47.

In addition, the Management Project and the Private Bar Delivery Project responded to many inquiries or requests for information from legal services programs or bar associations located in states, territories and possessions outside the continental United States. Training events, such as regional or national conferences on management issues or private bar involvement issues, were also sponsored by NLADA in which staff members of such programs participated.

The projects funded by LSC commissioned no studies of legal services activities outside the continental United States.

10. Has NLADA provided either direct or indirect assistance to the Coalition for Legal Services since the Coalition's inception in 1981? If so, please explain the nature and amount of that assistance.

Response

From 1981 through 1983, NLADA donated space and services and made cash contributions to the Coalition for Legal Services, Inc. The amount of direct and indirect assistance in any given year during that period did not exceed \$25,000, none of which involved LSC grant funds.

11. What is the amount that NLADA received in dues in 1980, 1981, 1982 and 1983 from recipients or grantees of the Legal Services Corporation?

Response

NLADA does not maintain records that allow it easy access to the requested information. NLADA members pay dues according to the following categories: civil, defender, associate and individual members. LSC recipients and grantees are part of the civil and associate members category. The following schedule sets out the amount of dues received by NLADA from

its civil and associate members in 1980, 1981, 1982 and 1983.

1980 -	\$396,077
1981 -	\$357,360
1982 -	\$350,523
1983 -	\$424,893

NLADA has no way of knowing what, if any, portion of the dues paid by any of its civil and associate members is derived from LSC funds.

12. What percentage of NLADA's budget was made up of funds received from the Corporation or its grantees and recipients in 1980, 1981, 1982 and 1983?

Response

NLADA maintains separate budgets and accounts for special grant funds and internal operating expenses. NLADA's audited financial statements (enclosed in response to Question 2) show expenditures of LSC grant funds for 1980 through 1983. Internal operating expenses incurred by NLADA for each of the years 1980 through 1983 were as follows:

1980 -	\$1,044,500
1981 -	\$1,253,461
1982 -	\$1,336,345
1983 -	\$1,253,327

Included in the internal operating expenditure amounts shown above are dues paid by members, including those paid by civil and associate program members. See the response to Question 11.

13. What portion of the monies received by NLADA in 1980, 1981, 1982 and 1983 from grantees or recipients of the Legal Services Corporation were spent on the cost of paying insurance premiums for program

Response

None. Insurance premiums are not paid to NLADA, but are paid directly to the insurance broker.

14. Has NLADA received funds from or awarded funds to the Western Center on Law and Poverty? If so, please explain the nature and purpose of the funding relationship and the amount of funds involved.

Response

Based on a review of NLADA's records, NLADA does not have nor has it had any funding relationship with the Western Center on Law and Poverty.

Yours very truly,

Benjamin Lerner
Benjamin Lerner
President

Attachments

May 15, 1984



NLADA
LEGAL
SERVICES
CORPORATION

601 PRET. NW.
10TH FLOOR
N.W. 20006
202 462-0620

Gene Potack
Acting Director
Office of Field Services
Legal Services Corporation
733 Fifteenth Street, N.W.
Washington, D.C. 20005

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Benjamin Lerner
Washington, DC

Vice President
John G. Mante
Atlanta, GA

Executive Director
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Washington, DC

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Executive Director
John L. Becker
Washington, DC

Dear Mr. Potack:

I have enclosed the materials that I indicated would be sent in my May 4, 1984 letter. With respect to the specific materials you requested in your letter of February 27th, please note the following:

1. As the Corporation was previously informed, the policy input into the Leadership Program encompassed review by the Civil Committee and informal working groups consulted by the Project. Enclosed are relevant portions of the minutes of those groups.
2. Rather than sending you every contract, as indicated in your seventh request, we have assembled them in one room to facilitate review by your monitors upon arrival. The summary of each contract, prepared pursuant to request #8 of your letter, should be sufficient to prepare for the monitoring visit.

We are also including a paper entitled "LSC Projects Report." This paper constitutes the annual report for the Leadership, Standards and Private Bar Projects, as well as the quarterly report for the Management and Library Project.

I have coordinated the schedules of the staff for the LSC-funded projects and the accounting staff to ensure their availability during the monitoring visit. I look forward to meeting the members of the monitoring team and discussing the procedures that will aid both our staff and the monitoring team in compiling the information they need to monitor the LSC fund-related activities adequately.

Sincerely,

John L. Becker
John L. Becker
Executive Director

Enclosures: as stated

CL/mlw

C. THE STANDARDS PROJECT

The Standards document was developed during the period when the entire legal community was reassessing the norms of professional behavior. That effort culminated in the adoption of the Model Rules of Professional Conduct which in turn has necessitated a review by appropriate authorities at the state and local levels.

The Standards Project will review and if necessary modify, the Standards document against the Model Rules. Further, the project will seek to achieve the integration of the Standards into the newly developing state and local rules.

D. SPECIAL PROJECTS - 1985

In 1985, NLADA will continue to pursue a flexible and integrated strategy in offering additional support to the civil community through continued implementation of the Special Projects. The core Civil Division staff will carry forward the goals for the Special Projects as an integral part of the division's operations. The Division will have the accomplishments of 1984 and its ongoing communication with the community to build upon in fashioning the most appropriate specific programmatic agenda. Specific budgets and plans will be considered and adopted by NLADA in December, 1984.

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ANNUAL REPORT
OCTOBER 1, 1981 - SEPTEMBER

LEADERSHIP PROJECT
NATIONAL LEGAL AID & DEFENDER ASSOCIATION

1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

BACKGROUND

On September 15, 1981, the Executive Director of the National Legal Aid & Defender Association submitted to the Legal Services Corporation a request for funding for various projects, including a request to establish and coordinate a Leadership Development Project within the Legal Services community. The funds were awarded to NLADA on September 28, 1981 as a one-time grant with the expectation that the funds would last throughout at least 1982 and 1983, and potentially into part of 1984.

The grant was awarded to the Association during a period of change in which it was recognized that additional leadership and new types of leadership would be required in the Legal Services community. There were varying opinions among personnel of the Corporation, NLADA, and others within the field as to exactly the form the Leadership Project would take and how this new leadership could be developed as efficiently and effectively as possible.

The initial determination made by NLADA, in conjunction with the staff of the Legal Services Corporation, was to retain Joan C. Lieberman, a well-known management consultant in Boulder, Colorado, to do a detailed evaluation of the options

and alternatives which were available for a Leadership Project within the Legal Services community. This work was undertaken by Ms. Lieberman--extensive field interviews, analysis, and study--from approximately November 1, 1981 through June 30, 1982.

Ms. Lieberman made an extensive study of those persons identified as either leaders within the Legal Services community presently, persons who had knowledge of the Legal Services community, or those who had general familiarity with concepts of leadership. The following is a list of persons interviewed by Ms. Lieberman during this process:

Legal Services OrganizationsNational OrganizationsAdvocates for Legal Services

Ann MacCrory

American Bar Association

Peter Bonovich, Director of Legal Services

Back-Up Centers

Jack Anderson, Staff Attorney, National Economic Development and Law Project
David Kilpatrick, Deputy Director, National Economic Development and Law Project
Sylvia Drew Ivie, Director, National Health Law Program
Robert Sable, Director, National Consumer Law Center

Coalition for Legal Services

Carolyn Stuart

Legal Services Corporation

Bucky Askew, Deputy Director, Office of Field Services
 Dan Bradley, President
 Theron O'Conner, Associate Director for Resources and Support
 Victor Geminiani, Regional Director, Atlanta Regional Office
 Alan W. Houseman, Director, Research Institute on Legal Assistance
 Beatrice Moulton, Director, Office of Program Support
 Paul Newman, Regional Director, Boston Regional Office
 Martie Thompson, Regional Director, Philadelphia Regional Office
 Salvador Tio, Regional Director, New York Regional Office

National Bar Association

Annette Hubbard, President

National Organization of Legal Workers

Jim Braude, President, NOLW
 Regina Little, staff, NOLW

National Legal Aid and Defender Association*

Howard Eisenberg, Executive Director
 Julius Menshah, Director, Civil Division
 Cheryl Porte, Civil Division
 Jack Schmerling, Deputy Director, Defender Division
 Rick Wilson, Director, Defender Division

Individual Leaders and Followers by RegionRegion I - Boston

Cling Bamberger, Legal Services Institute, Massachusetts
 Gary Bellow, Director, Legal Services Institute, Massachusetts
 *John Brooks, Peabody & Arnold, Massachusetts
 John Dooley, Consultant, Vermont
 Esther P. Lardent, Director, Volunteer Lawyers Project, Massachusetts
 Hal Lieberman, Executive Director, Central Massachusetts Legal Services, Massachusetts
 William J. McNally, Director, Greater Boston Legal Services

Alan Rogers, Director, Massachusetts Institute of Reform
 *Bob Spangenberg, Abt Associates, Massachusetts

Region III - Philadelphia

Sara Ann Detterman, Special Committee on Public Interest Practices, Hogan & Hartson
 Tom Erlich, Provost, University of Pennsylvania
 Charles Halpern, Professor of Law, Georgetown University School of Law, Washington, D.C.
 *William Klaus, Pepper, Hamilton & Scheetz, Philadelphia

Region II - New York

*Archibald Murray, Director, Legal Aid Society of New York City
 *Seth Rossner, private practice

Region IV - Northern Virginia

Staughton Lynd, Staff Attorney, Northeast Ohio Legal Services

Region V - Chicago

John C. Barrett, Director, Legal Services Corp. of Iowa

Region VI - Atlanta

*John L. Cromartie, Jr., Director, Georgia Legal Services
 Rick Ebbinghouse, Staff Attorney, Legal Services Corp. of Alabama
 Spencer Gilbert
 Cynthia A. Metzler, Director, Florida Rural Legal Services
 John A. Powell, Director, Legal Services of Greater Miami, Inc.

Region VII - Denver

Jon Asher, Director, Legal Aid Society of Metropolitan Denver
 Alan C. Friedberg, Pendleton & Sabian, Denver
 Bruce R. Greene, Greene and Meyers, Attorneys (former Director of CILS and Indian Law BUC), Boulder
 Don Hoagland, Davis, Graham & Stubbs, Denver
 Luis Jarimillo, Executive Director, El Paso Legal Assistance Society

Our examination was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedules are presented for purposes of additional analyses and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the examination of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Lucas, Tucker & Co.

*LT
& Co.*

EXHIBIT A

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
BALANCE SHEET

	DECEMBER 31,	
	1983	1982 (Note 6)
<u>ASSETS</u>		
Current:	\$ 19,933	\$ 55,490
Cash on hand and in banks	3,157	-
Savings	226,904	940,259
Investments (Note 2)	66,700	63,803
Accounts receivable (Note 4)	15,045	35,627
Prepaid expenses and advances	331,739	1,095,179
Total Current Assets		
Property: (Note 1)		
Furniture, fixtures and equipment		
at cost, less accumulated depreciation of	7,156	12,046
\$18,778 for 1983 and \$13,385 for 1982	<u>\$338,895</u>	<u>\$1,107,225</u>
Total Assets		
<u>LIABILITIES AND FUND BALANCES</u>		
Liabilities:		
Current Liabilities:	\$175,168	\$ 21,431
Accounts payable	132	5,526
Payroll withholdings	175,300	26,957
Total Current Liabilities		
Other Liabilities:	21,688	30,066
Accrued annual leave	110,924	-
Inferred revenue (Note 3)	307,912	57,023
Total Liabilities		
Fund Balances: (Exhibit B)	(561,765)	(169,605)
Unrestricted		
Restricted	211,333	163,637
Legal Services Corporation-Interest	374,259	1,017,950
Legal Service Corporation-Grant	-	(99)
The Edna McConnell Clark Foundation	-	10,215
Defender Management Information Systems IV	-	16,058
National Criminal Defense Systems Survey	585,592	1,207,761
	7,156	12,046
Property	30,983	1,050,202
Total Fund Balances	<u>\$338,895</u>	<u>\$1,107,225</u>
Total Liabilities and Fund Balances		

The accompanying notes are an integral part of this statement.

*LT
& Co.*