

Legal Services Corporation

Testimony before the
Subcommittee on Commercial &
Administrative Law of the
House Judiciary Committee

Submitted by
LSC Chairman Frank B. Strickland
LSC President Helaine M. Barnett

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INTRODUCTION

Mr. Chairman, Congressman Watt, and Members of the Subcommittee, thank you very much for the opportunity to testify before the House Judiciary Subcommittee on Commercial and Administrative Law. On behalf of the Board of Directors and Legal Services Corporation's (LSC) management, we are pleased to report on LSC's accomplishments since we last testified before the Subcommittee in 2002 and to answer any questions Committee Members might have.

Legal Services Corporation is a private, nonprofit corporation created by Congress with bipartisan support in 1974. LSC's charge is to ensure equal access to justice by supporting the provision of civil legal assistance to those who otherwise would not be able to afford it. For Fiscal Year 2004, Congress appropriated \$338,848 million to LSC, \$322,948 million of which has been allocated in grants to fund 143 legal services programs serving every U.S. county and territory.¹ LSC spends less than 4 percent of its total appropriation for the management and administration of the national program.

The LSC Board and staff are committed to our mission, as defined by the LSC Act, to promote equal access to our system of justice for low-income people throughout the United States. Given funding realities, LSC has focused in recent years on devising and implementing strategies that promote the highest and best use of federal funds in every state and territory. We continue to devote considerable LSC staff resources to compliance and enforcement activities, in order to ensure that federal recipients abide by congressional requirements and restrictions enacted in 1996, as well as all other laws and regulations governing federally-funded legal aid entities.

ADMINISTRATION

LSC is governed by an 11-member Board of Directors appointed by the President of the United States with the advice and consent of the Senate. By law, the Board must be bipartisan; no more than six members may be of the same political party. The Board appoints LSC's President, who serves as LSC's chief executive officer, subject to general policies established by the Board. The 1988 Amendments to the Inspector General Act (the IG Act) required LSC to establish an Office of Inspector General (OIG) and extended specific provisions of the IG Act to LSC. Accordingly, such an office was established by and for LSC. The Inspector General is appointed by, reports to, and serves under the general supervision of LSC's Board of Directors.

Submitting written testimony are LSC President Helaine M. Barnett and LSC Chairman Frank B. Strickland. Ms. Barnett assumed her position as President of LSC on January 20, 2004. She has been a legal services attorney for 37 years, employed throughout that time at the Legal Aid Society of New York City, the country's oldest and largest legal services organization. For nearly three decades prior to assuming the LSC presidency, Ms. Barnett was involved in the management of the Legal Aid's Society's

¹ Pre-rescission figures are used throughout this testimony.

multi-office civil division, heading it since 1994. In that capacity, she oversaw the provision of legal services covering the full range of civil legal problems of the poor, established a major initiative for homeless families with children, created citywide health law and domestic violence projects, and mobilized the organization's 911 Disaster Assistant Initiative. Ms. Barnett also assumed many additional leadership responsibilities within the legal community at the national, state, and local levels. She is a co-chair of the New York State Commission to Promote Public Confidence in Judicial Elections; Treasurer of the Association of the Bar of the City of New York; a member of the American Bar Association Governance Commission and House of Delegates and a past member of the ABA Board of Governors, where Ms. Barnett was the first and only legal services attorney to serve. Ms. Barnett was also a member of the ABA Executive Committee.

Mr. Strickland is a partner in the Atlanta law firm of Strickland Brockington Lewis, LLP. He served for seven years on the board of the LSC-funded Georgia Legal Services Program and for four on the board of LSC-funded Atlanta Legal Aid Society. President George W. Bush nominated him to the LSC Board in 2002, and he was sworn in as a member and elected Chairman in 2003. Mr. Strickland has been a member of the Board of Governors of the State Bar of Georgia since 1985 and is a former member and chairman of the Georgia State Ethics Commission. He has been general counsel of the Georgia Republican Party and is a member of the Board of Governors of the Republican National Lawyers Association. In addition, he is Chairman of the Atlanta Lawyers Chapter of the Federalist Society. When Mr. Strickland was President of the Atlanta Bar Association (1985-1986), he received the American Bar Association's Harrison Tweed Award for coordinating the year's outstanding pro bono project in America—mobilizing more than 400 volunteer lawyers to provide representation to more than 800 Cuban detainees in administrative parole proceedings.

ENSURING COMPLIANCE

LSC's Office of Compliance and Enforcement (OCE) was established to ensure that congressionally-mandated restrictions and other regulations are adhered to by LSC grantees. OCE's responsibilities include reviewing compliance by grantees with the LSC Act and regulations; responding to public complaints; approving major expenditures by LSC recipients; conducting accountability training; and providing follow-up to certain findings and recommendations contained in grantees' audited financial statements. The FY04 budget for OCE is \$2.47 million, which supports a 17-member staff comprised of a Vice President of Compliance and Enforcement, a Director of Compliance, a dozen attorneys, two fiscal analysts, two support staff and a management analyst.

New restrictions enacted by Congress in 1996 prohibit grantees who accept LSC funding from, among other things, filing or litigating class action lawsuits, engaging in most types of lobbying, seeking or receiving attorneys' fees, litigating on behalf of prisoners, or representing undocumented aliens. LSC has implemented these restrictions by regulation and monitors its grantees closely to ensure strict adherence. The LSC Board

and management have not hesitated to take strong and decisive action when grantees fail to comply with the law or LSC regulations. Fiscal sanctions have and will be imposed where necessary and appropriate, up to and including termination of the program's LSC grant.

In 2003, OCE performed 39 on-site reviews, surpassing its ambitious goal of 32 annually. OCE investigates public concerns, closely reviews mandatory annual audits filed by each LSC grantee, and performs on-site reviews to ensure that all congressional restrictions on LSC-funded programs are enforced. OCE selects programs for on-site review based on a combination of a number of criteria, including complaints of non-compliance, referrals from the Office of the Inspector General, a considerable change from one year to the next in Case Services Reports, and other indicators. Since 2001, LSC has had the authority to conduct random compliance reviews as well. Finally, if OCE uncovers a serious violation of the restrictions, or if a grantee implements a corrective action plan to resolve a compliance problem, OCE will perform a follow-up review within one year of the last review and provide technical assistance to ensure effective implementation of the corrective action plan.

LSC feels confident in the effectiveness of its compliance efforts. Because we use indicators such as complaints from Congress and the public to determine which programs to review, we give especially close attention to those grantees against which serious allegations have been made. In addition, the possibility of random audits occurring at any time is an effective safeguard against non-compliance. Finally, Independent Public Accountants (IPAs) perform an annual review of the compliance of each LSC grantee with LSC regulations and congressional restrictions. IPAs report any evidence of non-compliance to the Inspector General, who in turn refers the findings to LSC management for follow-up and resolution.

Since October 1997, LSC management and the Inspector General have instituted an official audit follow-up process with its grantees known as the A-50 Follow-up Process. This process is based on Office of Management and Budget (OMB) Circular A-50 for agency follow-up of OIG reports. The process sets out a general timeline for handling OIG findings and resolving any differences between the OIG and LSC management regarding such findings. OCE receives approximately fifty A-50 referrals a year. The overwhelming majority of issues are resolved in less than 30 days to the satisfaction of both management and the OIG. If OCE substantially agrees with the OIG that a grantee is not in compliance and that a satisfactory plan has not been submitted by the grantee to bring it into compliance, LSC may impose a number of sanctions. LSC may put the grantee on a short-term funding schedule; it may suspend part or all of a grantee's funding for up to 30 days; and it may terminate funding if the grantee engages in continued serious violations.

IMPLEMENTING COMPETITION

The central role of LSC is to manage and oversee the use of federal funds that support the direct provision of legal services by 143 LSC-funded legal services providers. Since 1996, LSC has used a system of competition for grants to promote the economical and effective delivery of services, as required by the LSC Act. This system supplanted the previous system of presumptive refunding of LSC grantees.

We encourage non-incumbent legal services providers to compete for available grants by broadly circulating information on the availability of grant funds and by providing outreach and technical support to potential applicants. LSC announces the grants competition each year in national and local newspapers, on the LSC website, in the Federal Register, and in bar journals.

During the competition process, LSC evaluates applications according to established quality standards and awards grants to those providers best able to efficiently provide high-quality legal services in accordance with all applicable legal requirements. LSC provides three channels through which competitive grant applicants, including non-incumbents, can raise questions, issues, and complaints about the grants process. LSC surveys all applicants who file a notice of intent to compete but fail to subsequently file a grant application. LSC has an applicant service desk that responds to applicant questions and concerns throughout the grants competition period. Additionally, LSC hosts an "Applicant Information Session," which is a free telephonic conference used to inform potential applicants about how to file a viable grant application. It also provides a formal vehicle for LSC to respond to questions and issues regarding its grants competition process.

LSC has held a grants competition each year since 1996 and recently completed the grants competition for calendar year 2004 funding. During the past eight years, there have been three competitions in which an incumbent LSC grantee lost to an applicant that had never previously received a grant from LSC. Whether or not there are multiple applicants for an LSC service area contract, every entity seeking LSC funds must submit a comprehensive application for LSC funding for a term not to exceed three years, and each grantee must submit an annual application for a renewal of LSC funding.

Over time, we have examined the competition process to learn how it can be improved and how to potentially attract more applicants. However, many factors help explain the lack of emergence of competitors for LSC funds. There are many situations across the country in which the legal community believes that the current LSC provider is performing well, and there simply has been no expressed interest by another entity seeking to become a legal services grantee. In our experience, law firms with an initial interest in offering one type of free service to low-income clients, such as representation in custody and divorce, are not interested in providing a full array of legal services, including housing, family, consumer and income maintenance work. Offering such services also requires establishing costly intake structures, emergency access, and other core capacities. Potential applicants also have reported that extensive reporting

requirements attached to LSC funding are a deterrent to applying for LSC funds. Some firms have made the economic determination that the limited LSC funding does not compensate for the time-consuming extra administrative tasks they would be required to perform. Congressionally mandated restrictions on LSC grantees also make it somewhat more difficult to attract qualified applicants able to compete with incumbent programs. In particular, some applicants have noted that the restriction on accepting attorneys' fees makes it difficult to stay financially competitive as a potential LSC service provider.

CASELOADS AND STAFFING

LSC grantees close approximately 1 million cases a year on behalf of low-income clients and handle an additional estimated 4 million "matters"—assistance that falls short of the official definition of a case (i.e., pro se assistance, dissemination of community legal education materials, referrals, mediation assistance, etc.). To serve the individuals and families these cases represent, LSC programs employ 8,277 full-time staff, of whom 3,652 are attorneys. The average starting salary for a staff attorney is \$33,489, making legal services lawyers among the lowest-paid members of the legal profession.²

Well over 50 percent of our clients are served through the advice and counsel efforts of our programs. Almost another 20 percent are assisted by brief service efforts. Fewer than ten percent of LSC grantee cases are resolved through a court decision. About three-quarters of LSC's client population are women, many with young children. Almost 11 percent are elderly. About one-quarter of the client population is African-American; about 20 percent is Hispanic; and approximately two percent are Native American and another two percent are Asian or Pacific Islander in origin.

IMPLEMENTING STRATEGIC PLANNING

LSC has used its State Planning Initiative to help grantees address emerging client populations, diminishing resources and important new technological advances that are revolutionizing the practice of law and helping legal services practitioners reach underserved client populations. State Planning requires that grantees supplement and enhance technology structures to improve client services and access. It requires grantees to coordinate functions with local and state stakeholders, including other LSC grantees, so more eligible clients who need legal assistance can receive it. State Planning also stresses local resource development and instructs grantees to undertake efforts to leverage their federal dollars with non-federal resources.

State Planning, in combination with federally mandated competition for LSC grants, is fully in accord with strategies set forth in President Bush's *Management Agenda*. In 2001, all federal agencies were instructed to leverage resources to maximize the use of limited government funds. The most enduring legacy of LSC's State Planning

² Legal Services Corporation 2002 Summary of Average Salaries by Job Classification for Full Time Staff. (www.rin.lsc.gov)

Initiative may be its success in achieving that directive. Through State Planning, LSC spawned partnerships with judges, state legislators and private bar members to help increase state funding and private contributions for legal services.

PROMOTING EFFICIENCIES THROUGH TECHNOLOGY

LSC's Technology Initiative Grant (TIG) program supports projects to develop, test and replicate technologies that enable programs to improve program efficiency and enhance client access to high-quality assistance in the full range of legal services. Initiated with a special appropriation in FY00 and funded by Congress every year since, the TIG program awards grants to LSC grantees through a competitive grant process. LSC awarded 51 TIG grants in 2003. In FY05, LSC plans to allocate \$4 million to the TIG program. Since the program's inception, LSC has funded a range of pioneering and effective technology projects. *Pro se* initiatives have equipped clients with the tools and support to protect their legal interests on their own while increasing the efficiency of the courts. Web-based systems, video-conferencing and related approaches have increased access to justice for clients living in remote areas. Newly designed case management and intake systems, as well as other infrastructure investments, offer increased efficiencies that enable programs to save time and money and ultimately serve more clients. Finally, client-centered statewide legal services web sites provide legal information in 49 states and territories, thanks in part to TIG grants and ongoing technical assistance funded with TIG monies. Using these tools, clients can more easily obtain legal information through computers in their homes or at public venues such as libraries.

The TIG program has increased access to legal information, self-help resources and other legal assistance for low-income Americans. It has also given traditionally hard-to-reach clients living in isolated areas a new avenue to pursue and obtain legal aid. TIG awards have allowed many LSC grantees to leverage matching funds from other sources. For instance, our program in Alaska received matching funds from the Alaska Court System to install and configure workstations in each of the six state courthouses. These provide access to public legal education and self-help materials in both English and in *Yup'ik*, a traditional Alaskan language.

Another replicable TIG innovation is our Montana pilot project on teleconferencing, which has enabled the Sixteenth Judicial District (200 miles in diameter) to hold trials in county courthouses throughout the area by utilizing video conferencing technology to hear from witnesses who live far from the actual courthouse. Many judges throughout the state now hold trials via teleconferencing. Sheriffs no longer have to bring in witnesses and litigants who lack transportation and judges can make better assessments of witnesses' and litigants' mental capacities when they are in familiar surroundings. Overall, court proceedings take far less time.

A further innovative example of a TIP project is California's I-CAN! project, a web-based legal services kiosk that offers convenient, effective access to vital legal services. Developed by the Legal Aid Society of Orange County, in partnership with the courts, local government agencies, libraries and legal services organizations, I-CAN!

creates properly formatted pleadings, provides court tours, and educates users on the law and how to pursue their matter. I-CAN! software facilitates completion and filing of forms on complaints regarding parental obligations, domestic violence restraining orders, orders to show cause, earned income tax credits, fee waivers, license denial reviews; paternity petitions, small claims matters and unlawful detainers. Users can access the program for free on any computer connected to the Internet and through kiosks in courthouses, legal aid offices, community centers, women's shelters, and libraries. It serves hard to reach groups such as rural communities and individuals with limited or no English proficiency as some modules can be accessed in Spanish and Vietnamese.

IMPROVING QUALITY

LSC management and the Board's Committee for the Provision of Legal Services launched a Quality Initiative in 2004 to study ways to enhance and promote the delivery of high-quality assistance by federal grantees. LSC is committed to identifying and subsequently spurring the development of certain core quality standards in its grantees. LSC will work with the American Bar Association and others to revise performance standards developed by the ABA's Standing Committee on Legal Aid and Indigent Defendants as well as those from other professions. Consensus has already been reached on certain quality benchmarks: streamlined case management systems, competent staff, peer review, resource development, consistently strong client outcomes and high client satisfaction. Other standards under examination include client involvement, workforce diversity, client accessibility, strategic use of scarce resources, and dissemination of best practices among providers. LSC will continue to examine how our most successful programs have achieved high quality and what is required to maintain it. We are providing a forum for experts to discuss the development of these qualities and showcasing grantees whose work demonstrates that they have given consistent attention to quality in staff work product, client concerns, and community relations.

It is essential that LSC have a strong presence in the national legal services community and be visible among its grantees as we assist them with their profoundly important mission. Our experience has shown that the more readily available we are to programs, the quicker they are to call us with questions and report problems. We have found that programs are eager to learn about ways in which they can improve performance and conform to LSC requirements. Teaching programs how to succeed yields far stronger outcomes for clients and lessens compliance problems. Recently, we increased our quality site visits to grantees. Sites were selected because they showed indications of weakness in one or more aspects of program activity or exemplified some of the best qualities found in legal services organizations. Although current LSC resource levels permitted fewer than a dozen trips in 2003, we have already realized significant rewards from the effort. LSC has been able to give guidance on improvements and to provide mentoring, partnership, and assistance in ways that allow grantees to deliver quality legal aid. LSC has also learned how strong programs achieve their success and has been able to share that information with others.

ENSURING ACCURACY OF STATISTICS

The Office of Information Management (OIM) is responsible for collecting data reported by our grantees or affecting them. Using 2000 census data, OIM determined the appropriation funding amounts for grantees based on a per capita calculation of the number of eligible poor people in each LSC service area. OIM is also responsible for managing the Case Service Reports (CSR) grantees file annually. In 1999, two U.S. Government Accounting Office (GAO) reports raised questions about the accuracy and validity of the CSRs. Problems reported by GAO stemmed in part from a lack of clarity found in past LSC reporting guidelines and, more generally, from insufficient attention by grantees to the existing reporting and documentation requirements.

LSC promptly took up the issue and instituted the necessary measures to correct the problem. LSC developed and issued to all grantees more detailed guidance on CSR reporting and on improving their case management systems to comply fully with LSC's operational standards. Then LSC provided additional training to those grantees most in need of it. LSC also established a system for sampling CSR data so that grantees can diagnose and correct reporting problems and LSC can track the error rate both grantee-by-grantee and nationally. As a result, accuracy greatly improved from an 11 percent sample error rate for 1999 CSRs to a 4.9 percent rate for 2000 CSRs. We continued to improve with a 4.3 percent sample error rate for 2002 CSRs. We expect a projected sample error rate between 4.2 and 4.3 percent in 2003.³ We are confident that the goal of "substantial accuracy" has been achieved. LSC will continue to pay close attention to the quality of CSR reporting to ensure the integrity of CSR figures, which are our strongest hard numerical indicator of services delivered, both on a national and individual program basis.

2005 BUDGET REQUEST

For FY05, LSC requests an appropriation of \$352.4 million to provide funding for civil legal assistance to eligible low-income persons throughout the United States. This represents a modest four percent increase over LSC's FY04 appropriation and only partially accounts for the increased number of eligible poor clients living in many LSC service areas. More than 43 million low-income Americans are currently eligible for federally funded assistance—a record high. In addition, LSC's funding over the years has been dramatically outpaced by inflationary increases at a rate of more than 2 to 1. Current funding, in 1980 real dollars, equals just \$149.17 million.

- LSC's FY05 budget request is structured to allow LSC to meet three key goals:
- To modestly increase the availability of legal services to eligible persons;
 - To ensure legal services clients are receiving high-quality legal assistance; and
 - To ensure that legal services programs fully comply with all legal requirements.

³ For 2002 cases, one more adjustment was made, excluding Title III Administration on Aging cases where collection of financial eligibility data is restricted by law. This adjustment reduced reported case closures by about another 35,000.

The FY05 request eliminates funding for the census adjustment line item that had been included in LSC's budget during the previous two fiscal years. In FY03 and FY04, as a transitional measure, extra funding was set aside to assist LSC-funded programs facing significant federal losses due to poverty population shifts. The census funding adjustments enabled grantees to gradually adjust to lower funding levels and gave program leaders an opportunity to reallocate scarce resources and devise strategies to raise additional non-federal funds. For FY05, LSC asks that its funding be distributed proportionally among all grantees based on *per capita* determinations of the eligible poor living in each service area.

Federal funding is the single largest and most critical funding component for legal aid and low-income Americans seeking access to critical civil legal assistance. The federal investment has become even more important in recent years, which have seen a variety of non-federal funding sources stagnate or shrink. Many LSC-funded programs are forced to turn away thousands of qualified individuals with urgent civil legal problems. These include victims of domestic violence seeking protective orders, parents seeking custody arrangements to protect their children from abuse, elderly consumers seeking protection from fraudulent loan and collection practices, tenants seeking to keep their families off the streets, and veterans and seniors seeking vital government benefits. Over 3,600 legal aid attorneys throughout the country are charged with providing civil legal assistance to the more than 43 million financially eligible Americans—individuals with annual incomes of \$11,638 or less, which is 125 percent of the federal poverty threshold. Despite the hard work and dedication of this skeletal workforce, studies show that approximately 80 percent of eligible clients do not have access to legal services when they have serious civil legal concerns.

HELPING CLIENTS

LSC is best understood in terms of the clients our programs assist. They are all poor individuals and families who face overwhelming legal challenges. We have selected several client histories that are indicative of the range of cases that our grantees across the nation handle where the provision of civil legal assistance has made a critical difference in their lives.

Ms. K. came to the Legal Aid Society of Orange County (LASOC) when she was 20 years old and the mother of a young son. She and her boyfriend began dating when she was 17 years old, and the severe physical abuse began two weeks later. He beat and kicked her repeatedly, hit her in the stomach when she was pregnant, isolated her from her family and friends, was verbally abusive, and refused to allow her to go out without him. He took her to and from her job and forced her to turn over her paycheck to him. She finally was fired because she was so stressed on the job from the situation at home. Despite her best efforts to please him, Ms. K was beaten because she did not keep a clean enough house or prepare meals her boyfriend liked. She finally left when he told her that she would be beaten when he returned home from work for failing to iron his shirt. LASOC assisted her in applying for restraining orders and custody and visitation orders.

The judge indicated that she was the textbook domestic violence victim and granted the orders as requested.

In New York, Legal Services of New York (LSNY) represented Ms. S. who was widowed when her husband, the primary breadwinner of the family and an employee of the World Trade Center, was killed on September 11, 2001. Shortly after the tragedy, while she was still in shock and grieving her loss, a finance company began eviction proceedings against her despite the fact that she had paid her rent. She learned that a foreclosure proceeding against her landlord had resulted in the landlord's loss of the house. LSNY successfully negotiated a settlement with the finance company and Ms. S. was given enough time to find another affordable place to live.

When Ms. A. was in junior high school she was assaulted so viciously that she could no longer walk. As a young adult she lived in her own apartment but required twenty-four hour a day living assistance. The state decided to decrease her home health care hours to save costs. Since Ms. A. was dependent on the availability of health care and assisted living on a twenty-four hour a day basis, the potential loss of her home health care benefits would give the young woman little choice but to enter a nursing home. With the assistance of Legal Aid of Western Missouri (LAWMO), Ms. A. was able to retain her home health care assistance and graduated from college. She now plans a career as a legal service attorney.

Ms. P acquired a ten-acre parcel of property in rural Idaho prior to her marriage. With the help of friends and neighbors she constructed a small home on the property. Eventually she married. Within a week of the marriage, her new husband, taking advantage of her disabilities, convinced her to sign a quitclaim deed giving him a one-half interest in her property. Over time he acquired complete control of their finances and incurred \$85,000 in debt. He grew abusive and was arrested for domestic violence. Upon his release from jail he filed for divorce and asked that "their" land and home be sold to cover the credit card debt. Idaho Legal Aid Services represented her in a multi-day trial. The court revoked the quitclaim deed and assigned the vast majority of the credit card debt to Ms. P's ex-husband.

CONGRESS HAS CONSIDERED AND REJECTED CO-PAY

At the Committee's request, the LSC is addressing the adaptability of a co-pay system for LSC-funded grantees. Although the question of charging clients a fee for legal assistance is not specifically addressed in the LSC Act, the legislative history of the Act strongly indicates that federally funded legal assistance provided pursuant to the Act is to be free of charge. Both the House and Senate reports note that "It is in the Nation's interest to encourage and promote the use of our institutions for the orderly redress of grievances....and that the program of providing *free legal assistance* to those unable to afford such counsel should receive continued support." The House Report goes on to state that "regulations promulgated by the corporation will assure that no person or group will be charged *any fee* for legal services provided by recipients under this bill."

LSC has followed this very clear legislative intent, and it has been the policy of LSC that our grantees may not charge fees for LSC-funded legal assistance. Our clients represent the poorest of the poor and most vulnerable individuals in the country and are desperately seeking civil legal assistance to make a critical difference in our lives.

Moreover, in the mid-1990s co-pay was considered and rejected by Congress. Reauthorization bills introduced in both the House and the Senate contained provisions that would have required LSC to undertake a demonstration project to study co-pays, and would have permitted—but not required—LSC to establish a system of co-pay for some or all of its programs. Neither reauthorization bill passed. However, a number of the provisions from the reauthorization bills were ultimately included in the 1996 Appropriations Act. The co-pay demonstration project was not included.

The legislative history of the 1996 Appropriations Act also makes clear that Congress intended for legal services to be provided free of charge. In justifying the attorneys' fees restriction, the House Report states, "Further, the Committee notes that Corporation grantees are supported by public resources to provide free legal aid to their clients. Therefore, the Committee believes it is inappropriate for attorneys' fees to be collected for *free* legal aid." We believe Congress was right when it indicated that federally funded legal services should be provided free of charge to those in our society most in need. (Emphasis added.)

STATUS OF LSC REVIEW OF OIG REPORT

In response to the Committee's request to consider current alleged infractions committed by California Rural Legal Assistance, LSC will report on the status of LSC's review of the OIG's and the possible sanctions that might be imposed on any program that has been referred to LSC by the OIG.

On September 30, 2003, the OIG provided CRLA with a draft audit report. As is standard procedure, CRLA was given an opportunity to respond. On November 14, 2003, CRLA submitted comments in response to the OIG's report. CRLA disputed the OIG's draft findings. On December 11, 2003, the OIG issued its final report. The OIG accepted some minor corrections from CRLA and dropped one finding. Otherwise, the OIG reiterated its previous findings. The OIG gave CRLA two months to provide a corrective action plan (CAP), which CRLA submitted in February of this year. OIG reviewed it and, on March 5, 2004, after deciding that CRLA's proposed CAP inadequately addressed the problems outlined in the report, the OIG referred the matter to LSC's Office of Compliance and Enforcement (OCE) through what is known as the A-50 referral process.

We take our responsibilities under the A-50 process very seriously. The A-50 process stems from a requirement in the 1996 Appropriations Act that LSC was to "develop procedures to ensure effective follow-up that meet at a minimum the

requirements of Office of Management and Budget Circular Number A-50.” A-50 provides for general federal agency follow up procedures for IG findings.

Following the procedures outlined in that process, OCE, in conjunction with LSC’s Office of Legal Affairs and management, is currently reviewing the facts and the law presented in this case. We hope to conclude this review of whether or not we agree with the OIG’s report by May 1, 2004. We will, however, conclude our work on this case in as short a time frame as we reasonably can.

There are a number of possible scenarios that could arise after LSC completes its review of an OIG report. If we concur with the OIG’s findings that a program violated LSC regulations, and we agree that a program’s proposed CAP will not adequately remedy the situation, we would try to work with the program to develop a CAP that will bring them into compliance.

If working with the program does not bring them into compliance, we will consider the imposition of any and all sanctions necessary to promptly bring the program into compliance. LSC may suspend part or all of the grantee’s funding for up to thirty days; we could put the grantee on a short-term funding schedule at the end of the calendar year; and, if the grantee continued to engage in serious violations of congressional will as codified in LSC Act, appropriations acts and regulations, we could terminate the grantee’s LSC funding.

Another sanction available to LSC is to cease to fund the program during the next competitive grant cycle. LSC always takes a grantee’s compliance history into account during the competition process.

If after review of the OIG’s report, LSC management disagrees with the OIG’s conclusions, then as part of the A-50 process, an Audit Follow up Official (AFO), designated by the LSC president, tries to work out an agreement. If an agreement cannot be reached between the OIG and LSC management, then the AFO issues a decision that will be final.

CONCLUSION

Civil legal services programs play a critical role in helping poor individuals and families achieve independence and self-sufficiency and in obtaining critical relief. Annually, the LSC cases fall into traditional poverty law categories. Grantees close almost 40 percent of their cases in family law each year, primarily representing custodial parents and victims of domestic abuse seeking divorces and orders of protection. More than ten percent of our closed cases involve efforts to help elderly clients with income maintenance issues, veterans’ benefits, disability claims, and other relief under benefits programs designed for older Americans. Almost one-quarter of our grantees’ litigation is devoted to housing law issues—preventing family homelessness by challenging evictions, preventing foreclosures, improving living conditions, helping with Section 8

and other federal housing subsidies or through community activities to improve neighborhoods and develop affordable housing. Our programs' lawyers keep children in school by representing them in expulsion hearings and helping students with disabilities learn in effective and appropriate settings. LSC grantees make sure that the working poor have access to fair employment and the wages to which they are entitled. Our grantees also assist consumers with bankruptcy and other debt relief, including that caused by predatory lenders.

In conclusion, we at LSC are proud of our partnership with Congress and enormously grateful for the bipartisan support we have earned over the past decade. We also deeply appreciate the support the Bush Administration has shown for our efforts to provide equal access to justice for low-income Americans in the most efficient and effective manner possible. The LSC Board and staff will continue in this collaborative effort and will build upon these important relationships in the future as we endeavor to give meaning to the goal of equal access to all Americans. Thank you.