

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS



SEMIANNUAL REPORT TO THE CONGRESS

FOR THE PERIOD

OCTOBER 1, 2001 – MARCH 31, 2002

MAY 31, 2002

FOREWORD

I am pleased to transmit the Semiannual Report of the Legal Services Corporation (“LSC” or “Corporation”) Board of Directors (“Board”), providing comments on the Semiannual Report of LSC’s Office of Inspector General (“OIG”) for the six-month period of October 1, 2001, through March 31, 2002, and providing further explanation of LSC’s activities during the reporting period.

LSC’s Board recognizes the value of the Inspector General function and remains committed to working with the OIG to achieve our goal of providing high quality legal assistance to the poor of our nation.

Douglas S. Eakeley, Chairman
Legal Services Corporation
May 31, 2002.

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MESSAGE OF THE BOARD OF DIRECTORS

During the reporting period, LSC President John Erlenborn received a letter requesting that he appear before the House Judiciary Committee's Commercial and Administrative Law Subcommittee, chaired by Representative Bob Barr (R-GA). Mr. Erlenborn testified before the subcommittee on February 28, 2002. The Subcommittee discussed and asked questions about LSC's compliance with congressionally mandated restrictions passed in 1996. The major topics discussed included LSC's case-reporting procedures, the competition process for awarding grants, and the role of the Board of Directors in overseeing and monitoring LSC's activities. On April 5, 2002, shortly beyond the reporting period, the subcommittee submitted follow-up questions to LSC. LSC provided the subcommittee with answers to the questions on May 8, 2002.

The Board of Directors and management of LSC are committed to enforcing the will of Congress. LSC has vigorously enforced the 1996 restrictions and will continue to do so. LSC looks forward to a continued, cooperative partnership with Congress in providing equal access to justice for the poor.

LSC made continued progress in its State Planning Initiative during the reporting period. Over the past six months, LSC facilitated and approved structural changes in four states in order to develop more effective and economical legal services delivery systems. The consolidation of service areas and programs¹ in these states has been designed to maximize economies of scale, evenly distribute access to services, and broaden the delivery of the services available to low-income clients. LSC also provided technical assistance to fourteen states to assist them in planning and implementing the structural and service delivery changes necessary to achieve State Planning goals. Finally, LSC staff traveled to thirteen states to conduct evaluative and planning meetings with grantees and state equal justice planning bodies.

During the reporting period, LSC continued work on other initiatives to support its grantees and to improve the quality and accessibility of services. LSC continues to use technology to promote and facilitate access to legal services. It has provided a broad range of technological assistance, including grants, to programs during the reporting period, and it has focused particular attention on projects designed to increase substantially access to legal services, such as the creation of statewide websites and technological projects that assist *pro se* litigants.

Some of LSC's additional efforts during the reporting period include continued program visits to discover innovative procedures that may serve as models for other programs; the ongoing collection of data from grantees to capture information about the breadth of grantee accomplishments beyond case handling; the issuance of an *Action Agenda* enumerating the efforts LSC will undertake to expand diversity in the legal

¹ 'Programs', 'recipients', and 'grantees' are used interchangeably in this report to refer to recipients of LSC funding.

services community; the hosting of two trainings on client board member leadership; the continued collection of information on innovative methods used by grantees, which will be shared with all grantees via the 'LSC Resource Library'; the dissemination of Characteristics of Model Intake Systems to grantees in April 2002, just beyond the reporting period; the completion of LSC's comprehensive review of its regulations; and the commencement of work on negotiated rulemakings for regulations 1611 (financial eligibility) and 1626 (legal assistance to aliens). LSC also continues to monitor its grantees for compliance with federal law and LSC regulations, working closely with the Office of Inspector General.

BACKGROUND

Legal Services Corporation

The Legal Services Corporation is a private, non-profit corporation established in the District of Columbia by the Legal Services Corporation Act of 1974, as amended (the “LSC Act”),² to provide financial support for legal assistance in civil proceedings to persons unable to afford legal services. LSC is governed by an eleven-member bipartisan Board of Directors appointed by the President of the United States with the advice and consent of the Senate. The Board appoints LSC’s President, who serves as the Corporation’s chief executive officer, subject to general policies established by the Board.

The 1988 Amendments to the Inspector General Act of 1978 (“the 1978 Act”) required LSC to establish an Office of Inspector General (“OIG”) and extended specific provisions of the 1978 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.

Funding and Grant-Making Activities

LSC provides funding to legal services programs serving indigent persons throughout the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and Micronesia. To carry out the purpose of the LSC Act, Congress approved an appropriation of \$329,300,000 for LSC for fiscal year 2002 in the Commerce, Justice, State and the Judiciary appropriations bill, and President Bush has recommended the same level of funding for LSC for FY 03.

² 42 U.S.C. §§ 2996-2996l.

MANAGEMENT INITIATIVES

During this reporting period, LSC continued its efforts to improve the efficiency of its competitive grant award system and the effectiveness of the delivery of legal assistance by its initiative for statewide planning and coordination of legal services. The Corporation continued to demonstrate its ability to ensure both compliance with program rules and regulations, and the maintenance of high quality legal assistance to eligible clients.

State Planning

LSC continues to promote efforts by its grantees to develop comprehensive, integrated delivery systems that reach a greater number of persons, with a broader range of services. The State Planning initiative requires grantees to work with other providers and stakeholders within each state, such as the courts, bar associations and client groups, to assure that a full range of high quality services is available to clients regardless of their location within a given state.

During the reporting period, LSC facilitated and approved structural changes in the following four states in order to develop more effective and economical systems for the provision of legal services to low-income clients: Iowa, New Jersey, North Dakota and Michigan. Since 1998, the number of grantees has been reduced from 262 to 170. Consolidation of service areas and programs enables recipients to take advantage of economies of scale, evenly distribute access to services, and broaden the delivery of the services available to low-income clients.

LSC continued to make technical assistance available to help the following fourteen states plan and implement the structural and service delivery changes necessary to achieve the State Planning goals: Arkansas, California, Iowa, Louisiana, Michigan, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, and West Virginia. In this reporting period, LSC made additional technical assistance available to New Mexico, New York and Missouri.

LSC also conducted its first meeting of programs that serve entire states (i.e. statewide programs) to discuss State Planning expectations for these grantees. The meeting, *Statewide Programs: Building State Justice Communities*, convened executive leadership from both the newly created statewide LSC-funded programs and the more historical, experienced, statewide programs. A total of 31 program representatives attended, and 22 of the 23 statewide programs were represented. Also in attendance were representatives from Puerto Rico, Guam and the Virgin Islands.

During this period, LSC State Planning staff also traveled to the following thirteen states to conduct evaluative and planning meetings with grantees and state equal justice planning bodies: California, Florida, Georgia, Louisiana, Michigan, Mississippi, Montana, Nevada, New York, North Dakota, Oklahoma, Oregon, and Tennessee.

Varying in length from several days to a week long, these visits inform LSC of the progress and challenges in these states. They also provide grantees and their partners with solid information about achievements in other jurisdictions, innovative ideas, and LSC's expectations.

Taken together, these efforts have resulted in significant, positive changes for legal services clients throughout the country, including development of additional resources for civil legal services, new and more efficient ways of providing legal information and advice to low-income persons, and more effective and economical structures to assure equal justice to a greater number of Americans.

Competition

LSC's competitive grants process is designed to comply with the Congressional requirement to award grants through a system of competition and to assure the most efficient and effective delivery of services to the client community. The competition process also helps LSC maintain current information about the legal services delivery system, facilitates integration of diverse delivery strategies, and promotes knowledge about 'best practices' and model projects in the delivery system. The 2002 competitive process was completed in December 2001. LSC awarded grants to 107 applicants.

The 2003 competition process began just beyond the reporting period with the publication of service areas in competition and the notice of funds availability in April 2002. Approximately 92 service areas in 28 states, the District of Columbia, Guam, Micronesia, Puerto Rico, and the Virgin Islands, are being competed for calendar year 2003 grants.

The competition process has evolved over the past six years into a useful tool for capacity building within the legal services delivery structure, for identifying areas for further improvement, and for networking legal services programs into comprehensive, integrated delivery systems. Last year LSC reported on its plans to continue improving the competition process through refinements to the Request for Proposals ("RFP") and simplification of the methods by which LSC obtains applicant information essential to the delivery of high-quality, client-centered legal services. Those plans were executed earlier this year, when LSC surveyed several groups involved in one or more aspects of the competition process for alternatives to improve and simplify the process. As a result of this year's survey, the grant application review process will be restructured to achieve even greater efficiencies and productivity in LSC's grant application evaluation process.

The competitive grants process is administered through a fully automated Internet application system. This permits analysis of current information on legal needs, response strategies, and administrative and management systems. As a result of this system, LSC can collect more useful information about the many strengths and potential weaknesses in the delivery system. Model program initiatives, advances in technology, new client-centered delivery strategies, and program diversity and training strategies are identified

through the competition process so that they can be shared and replicated by legal services programs across the country.

The RFP, instructions, resource materials, and key competition dates are available at www.ain.lsc.gov.

Technology Efforts

During the reporting period, LSC continued its efforts to use technology to promote and facilitate access to legal services by indigent clients. In its effort to accomplish these objectives, LSC made a series of grants that fund the creation of statewide community legal education websites, and websites that assist clients in *pro se* representation. In addition to funding such efforts, LSC offered other advice and technical support to grantees in implementing these technological improvements.

In October, LSC held its 2001 Technology Initiative Grants (“TIG”) conference at the Chicago Kent School of Law and the Illinois Institute of Technology. The purpose of this conference was to provide TIG recipients with the necessary information and resources to implement successful technology projects that improve access to legal services. The conference offered sessions on the following topics: Basic Principles of Project Management; Defining Clear Decision-Making Structures; Creating Effective Committees; Budgeting and Costs; and Defining Scope and Timelines.

Three projects that LSC is funding in whole or in part with the TIG grants were featured prominently at the National Legal Aid and Defender Association (“NLADA”) meeting in November 2001. These projects are Probono Net (assisting with the creation of statewide websites), the National Technology Assistance Project (“NTAP”) (providing technical assistance to grantees nationwide), and I-CAN (funding the creation of a *pro se* kiosk in Orange County, California). LSC participated in a panel discussion about developing website content at the NLADA meeting, and it also participated in the Management Information Exchange (“MIE”) conference on web sites, held in conjunction with the NLADA gathering.

During the reporting period, LSC worked with the National Center on Poverty Law, Probono Net and other organizations to form a LegalXML Legal Services Work Group. This group was created to develop data standards for client information and legal content. Working within the structure of LegalXML, and specifically with the Court Filing workgroup, will insure that LSC’s technology initiatives are compatible with e-filing projects. This will also allow legal services programs to share information more easily.

In its last report to Congress, LSC described a grant made to the Legal Aid Society of Cincinnati (“LASC”) to assist programs with project evaluations by creating a national evaluation strategy to promote maximal assistance to clients through the use of technology. Through this grant, LSC is collaborating with the National Center for State Courts (“NCSC”), the State Justice Institute (“SJI”), the Open Society Institute (“OSI”),

the California State Courts and others to ensure that results produced with the LSC TIG grants are coordinated with other *pro se* and technology evaluation projects. LSC will use this collaboration to develop a national model for evaluating *pro se* projects for legal services programs, the courts, and others. LSC has also assembled an advisory panel that will formulate collective questions to be answered by TIG recipients about the usefulness and effectiveness of the LSC technology grants.

LSC chose five states – Mississippi, Oklahoma, Texas, Nebraska, and Virginia – to receive more intensive help with State Planning technology efforts. Members of LSC’s technology staff have visited Mississippi and Oklahoma to provide assistance in this regard.

As of the completion of this report, 17 states³ had begun to implement statewide websites using the Probono.net template. By using this template, programs are able to begin publishing legal information on the internet without delay.

LSC’s current technology grant cycle is underway. As of the end of this reporting period, the Request for Proposals (“RFP”) had been published, and applications were due by April 28, 2002.

Program Visits

During the reporting period, LSC continued visiting programs to assess quality, address problems, and evaluate innovative procedures which may serve as models for other programs. These visits confirmed LSC’s belief that such evaluations expand its understanding of programs’ activities otherwise gleaned from competition applications, grant activity reports and anecdotal information.

To ensure that programs act on recommendations it makes in connection with on-site visits, LSC has communicated, and/or planned follow-up visits with, programs visited in 2001. LSC has also distributed to other programs the inventive delivery systems observed on these program visits.

From September 30, 2001, to December 30, 2001, teams consisting of LSC staff members and consultants visited the last three of twelve programs identified for assessment in 2001. From January 1, 2002, to March 31, 2002, two of the seventeen visits scheduled for 2002 were conducted.

Client-Centered Initiative

As an expansion of its efforts to create Client Centered State Communities of Justice (which were initiated with a conference in April of 2001 and described in the

³ Alaska, Arizona, Colorado, Florida, Georgia, Hawaii, Indiana, Louisiana, Michigan, Mississippi, Montana, Nevada, Oklahoma, Oregon, Texas, Virginia, Virgin Islands

Board's previous report to Congress), LSC conducted two trainings on client board member leadership, one in November 2001 and the other in April 2002, just beyond the reporting period. It also produced a report in November of 2001 about the importance of client-centered legal services delivery. The goal of this effort is to ensure that LSC-funded programs listen to, and effectively communicate with, the client community, so that they can be maximally responsive to client legal needs and changing circumstances.

Resource Initiative

LSC continually seeks to ensure increased access to legal services by the client community, and the provision of high-quality legal assistance by grantees. To that end, LSC has made significant progress with its 'Resource Initiative' (formerly the 'Information Management Initiative'). The project is successfully gathering information about innovative legal services management and delivery approaches. These innovative practices and promising program approaches will be available on a website known as the 'LSC Resource Library.' LSC programs will be able to access promising models to gain information and replicate existing legal services strategies. The Corporation is coordinating with other entities, and the website will link to existing sources of information.

LSC staff members have met with many of its national partners and introduced the Resource Initiative at the National Legal Aid and Defender Association ("NLADA") Conference in November 2001. Many LSC programs have submitted information for the initiative. LSC is also collecting information through program visits and direct information requests. The LSC Request for Proposals ("RFP") for 2003 provides a section for programs to report on innovative techniques and special projects. LSC will share this information with the public in the near future.

Currently, information collected through this initiative is available on a temporary site on the LSC intranet. LSC is now in the process of finalizing the site design and developing a protocol to post information for public use. It has formed a committee to assist with this and other key decision-making matters.

Diversity Initiative

LSC's yearlong diversity project – a far-reaching initiative that explored the challenges facing clients and staff because of gender, race, disability and related issues - culminated with the issuance of an LSC *Action Agenda*. This document highlights thirteen specific efforts that LSC has pledged to undertake in order to strengthen and expand diversity in the legal services community.

The *Action Agenda* is based on recommendations contributed by participants in the National Conference on Diversity in the Legal Services Community that LSC and NLADA held in Spring 2001. The *Action Agenda* also includes ideas raised at the seven smaller diversity 'conversations' that LSC held around the country and that focused on

special diversity issues such as client experiences. Reports from each ‘conversation’ and the conference are posted on the LSC website, as is the *Action Agenda*.

LSC has moved quickly to implement its *Action Agenda* commitments. It hired a diversity specialist to help state justice communities address diversity concerns. Additionally, it has retained a consultant with experience in creating and implementing diversity trainings. Working with an advisory committee made up of program directors and a client board member, the consultant will produce a diversity and leadership training module that program boards can use for diversity training and leadership development, and to guide in the creation of diversity strategies for themselves and their programs.

LSC increasingly emphasizes the importance of diverse leadership in the legal services community. To that end, it is designing two educational programs for presentation in public forums. One is for a regional conference and it will examine diversity and reconfiguration. In the other, held in conjunction with a national conference, LSC will showcase the board training module on diversity and illustrate it with representatives from the programs where the Corporation “tested” it. Additionally, LSC has set aside technical assistance funds to support State Planning diversity projects in states where there is a strong need and a deep interest. The Corporation anticipates that these will be prototypes, replicable by other State Planning groups.

Characteristics of Model Intake Systems

As part of its effort to encourage and promote innovative procedures, LSC produced a list of draft characteristics of ideal telephone intake, advice, and referral systems. These systems are relevant to LSC’s goals of enhancing access to services and assuring high quality services, in that they promote prompt client assistance in a uniform manner.

Since October 2001, LSC has reviewed and considered the numerous comments received about the draft characteristics from recipients and other interested parties. Appropriate changes based on those comments were incorporated into the list, and the ‘Characteristics of Model Intake Systems’ were finalized and reported to recipients and the public in a Program Letter in April 2002.

Collection of Data on “Matters” that Programs Handle

As reported in the last Semi-Annual Report to Congress, LSC is now collecting information on work performed by LSC-funded programs other than the “cases” that are reported in case service reports (CSR’s).⁴ This work, generally categorized as “matters” on program timekeeping records, constitutes services that programs provide other than cases. It includes referrals; community legal education (CLE) presentations; *pro se*

⁴ The collection of this data was referred to as ‘The Results Project’ in LSC’s last report to Congress and was discussed at pages 7-8 of the report.

assistance; CLE materials, articles and web sites; and other services such as collaborative training, mediation and alternative dispute resolution work.

LSC grantees began collecting this information on July 1, 2001. They reported to LSC on the “matters” they handled for the second half of 2001 on March 15, 2002. LSC is currently in the process of analyzing the ‘matters’ data received for the period July 1, 2001 through December 31, 2001, and it will likely have preliminary figures to report to the Board in June 2002. As noted in the last SAR, LSC anticipates some uncertainty in the counts for the first six months, as programs become accustomed to this new reporting requirement and as LSC clarifies definitions. LSC anticipates that programs will become fully acclimated to this process during 2002, the first full year of reporting, and that it will soon have information that more accurately reflects the full range of work that LSC grantees perform.

Equal Justice Magazine

Shortly beyond the reporting period on April 13, 2002, LSC launched America’s first magazine dedicated exclusively to exploring equal justice issues and the work of public interest lawyers. *Equal Justice Magazine (EJM)* will combine in-depth human interest features with compelling interviews of some of Washington’s top newsmakers and political leaders, vignettes and photos from the national legal services community, and thoughtful analysis about how to improve the civil justice system in America. The quarterly publication is produced by LSC’s Office of Government Relations & Public Affairs.

Performance Measures to Evaluate State Justice Communities

In December 2001, LSC retained the services of Greacen Associates to create an instrument that allows LSC to make reasonable and comparative judgments about the effectiveness, efficiency and adequacy of state justice communities established through LSC’s State Planning initiative. To assist with this process and ensure that the product is most effective for the legal services community, LSC established a Design Team to work with Greacen Associates. In addition to LSC staff, team members include representation from LSC funded programs, other legal services providers, foundations, the judiciary, academia, the American Bar Association and the National Legal Aid and Defender Association.

LSC expects that a preliminary instrument will be sent to recipients for comment in May or June of 2002. Suggestions for change will be considered and the penultimate tool will be tested in Ohio and Washington in November 2002. The design team will then review the instrument in light of the experience at the test sites, with the goal of producing a final product by the end of the year.

Rulemaking Activities

During the reporting period, LSC started two rulemakings and completed a third. Work began on Negotiated Rulemakings to consider revisions to LSC's regulations on eligibility (45 CFR Part 1611) and restriction on legal assistance to aliens (45 CFR Part 1626). Working Groups consisting of representatives from LSC, grantees and national organizations interested in legal services have each been meeting under the direction of a professional facilitator, starting in January 2002 and continuing through the spring. Neither Working Group has yet completed its work, but LSC anticipates publishing Notices of Proposed Rulemakings based on the Working Groups' deliberations later in the year. In addition, LSC conducted a Notice and Comment Rulemaking to revise its regulation on welfare reform (45 CFR Part 1639), to incorporate changes necessitated by the United States Supreme Court decision in *Legal Services Corporation v. Velazquez, et al.*, Nos. 99-603 and 99-960, 121 S. Ct. 1043, 2001 WL 193738 (U.S., February 28, 2001) and the FY 2002 LSC appropriations legislation, P.L. 107-77, 115 Stat. 748 (November 28, 2001).

LSC recently completed work on a thorough review of its regulations. This project was consistent with the five-year strategic plan, "LSC Strategic Directions 2000 – 2005" which, among other things, requires reviewing LSC's regulatory compliance requirements for efficiency, unnecessary duplication and burden, and implications for the delivery of high quality, appropriate legal services. A final report of the staff task force reviewing the regulations was published in January 2002.

Litigation Update

On December 14, 2001, the Brennan Center for Justice filed *Dobbins v. Legal Services Corporation* in the United States District Court for the Eastern District of New York. This suit challenges the constitutionality of the prohibition on the use of LSC funds for class actions suits and the prohibition on the collection of attorneys' fees in any case undertaken on behalf of a client of an LSC recipient. LSC has hired the New York law firm of Kronish, Lieb, Weiner & Hellman LLP to represent its interests and vigorously defend the challenged restrictions, which were originally imposed by Congress in 1996, and which have been applied to grantees through the promulgation of LSC regulations.

Response to Office of Inspector General Program Integrity Audits

On October 30, 2001, and March 18, 2002, the OIG issued reports of their audits of two grantees for compliance with the LSC requirements regarding relationships with entities that engage in prohibited activities. LSC Management has reviewed the audit report provided by the OIG for Central Virginia Legal Aid Society and has been informed that the concerns raised in this audit are being addressed by the grantee. Neither matter was referred to LSC Management for follow-up assessment through the A-50 process. On May 8, 2002, the Lane County Legal Aid Service audit was otherwise

referred to LSC Management for follow-up, and LSC Management will now take all appropriate steps to address the issues raised therein.

TABLE 1

**Management Report on
Office of Inspector General Audits of Grantees
Issued With Questioned Costs
For the Six Month Period Ending March 31, 2002**

	Number of Reports	Disallowed Costs
A. Audit Reports for which final action had not been taken by the commencement of the reporting period.	0	\$0
B. Audit Reports on which management decisions were made during the reporting period.	0	\$0
Subtotals (A + B)	0	\$0
MINUS:		
C. Audit Reports for which final action was taken during the reporting period:	0	\$0
(i) Dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise.	0	\$0
(ii) Dollar value of disallowed costs that were written by management.	0	\$0
D. Audit Reports for which no final action has been taken by the end of the reporting period.	0	\$0
Audit Reports for which no final action had been taken within six months of issuance	0	\$0

TABLE 2

**Management Report on Audit Reports Issued During
The Six Month Period Ending March 31, 2002,
With Recommendations That Funds Be Put to Better Use By Management
Agreed to in a Management Decision**

	Number of Reports	Dollar Value
A. Audit Reports for which final action had not been taken by the commencement of the reporting period.	0	\$0
B. Audit Reports on which management decisions were made during the reporting period.	0	\$0
Subtotals (A + B)	0	\$0
MINUS:		
C. Audit Reports for which final action was taken during the reporting period:	0	\$0
(i) Dollar value of recommendations that were actually completed.	0	\$0
(ii) Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed.	0	\$0
D. Audit Reports for which no final action has been taken by the end of the reporting period.	0	\$0
Audit Reports for which no final action had been taken within six months of issuance.	0	\$0