

Review of Selected Parts of the Legal Services of Northern Virginia's 1997 Grant Activity Report and Timekeeping System and its Compliance With Selected Regulations

Grantee:

Legal Services of Northern Virginia

Recipient No. 447007

Final Audit Report No. AU99-001

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EXECUTIVE SUMMARY

Legal Services of Northern Virginia's 1997 Grant Activity Report significantly overstated the number of open and closed cases worked on during the year. The Grant Activity Report showed 4,166 closed and 4,949 open cases.

We estimate that 559 cases or 13 percent were improperly reported as closed during the year. Some of these cases were reported closed twice in 1997 while other cases had been closed in prior years. Cases not funded by Legal Services Corporation (LSC) were reported as were cases for individuals who were ineligible for LSC funded assistance.

The number of open cases was overstated by an estimated 3,400 plus cases. These were primarily cases that were several years old and that were no longer being serviced. Almost 350 of these cases were over six years old. Many cases had been closed but the computer system that produced the statistics for the report was not updated to reflect the closure. In addition, some cases duplicated cases that had been closed and reported to LSC in previous years.

Several other case management problems, unrelated to case statistics, also were apparent. A significant number of case files could not be located for review. Incorrect case numbers were assigned to many clients. The attorneys or paralegals responsible for client cases were incorrectly identified for almost 18 percent of our sample cases. When individuals left Legal Services of Northern Virginia employment, their cases were not promptly reassigned in the case management system to another attorney or paralegal. As a result, the level of service provided to clients could have been adversely affected.

Management has initiated actions to improve the reporting of case statistics. Staff responsible for client cases have been asked to validate the cases they are working on. New instructions that improve controls over case openings and closures have been issued. These are good first steps, however more needs to be done if reliable statistics are to be provided to LSC. On page 11 we make recommendations for further corrective actions.

Our work also disclosed some relatively minor problems in the time keeping system but did not find evidence that prohibitions and restrictions on class action suits, alien cases, evictions, and prisoner cases were being violated. We did find, however, that eligibility determinations for some individuals were not fully documented. On page 12 we make recommendations to correct the time keeping and documentation problems.

BACKGROUND

Legal Services of Northern Virginia, Incorporated (LSNV) became a regional program in 1980 when independent legal aid societies in Arlington, Fairfax, Loudoun, and Prince William counties and the city of Alexandria merged into a single organization. In 1997 LSNV received about \$2.6 million in funding to carry out its programs. LSC

provided about \$462,000 or 17.6 percent of LSNV's funding. The remainder came from state, local, and private sources.

LSNV has a main office in Falls Church, Virginia, and four branch offices spread through its service area. The offices are staffed with 26 attorneys, 16 paralegals, and 18 support staff. In addition, about 600 pro bono attorneys, paralegals, and law students represent clients, conduct clinics, and provide advice and counsel to clients.

LSNV prepares and submits an annual Grant Activity Report (GAR) to LSC on key aspects of its program including the number of open and closed cases, types of cases handled and the reasons for closing cases. For calendar year 1997, LSNV reported that it closed 4,166 cases and had 4,949 open at year end. LSNV tracks client cases primarily through manual, paper case files and an automated system named CHARM. This system includes histories on over 9,100 active cases (those either opened or closed during 1997) and about 34,000 inactive cases (those closed prior to 1997). The active CHARM data base is used to prepare the GAR.

OBJECTIVES, SCOPE AND METHODOLOGY

The primary objectives of this audit were to determine whether LSNV: (1) provided LSC accurate case statistical data in its 1997 GAR, (2) accurately recorded attorney and paralegal time as required by LSC regulation (45 CFR 1635), and (3) refrained from engaging in selected prohibited and restricted activities involving class action law suits, representing aliens, eviction cases, and prisoner cases as required by LSC regulations (45 CFR parts 1617, 1626, 1633, and 1637).

Office of Inspector General (OIG) staff performed the audit from April 20 through May 28, 1998 at LSNV's main office in Falls Church and its largest branch office in Fairfax, Virginia. We reviewed LSNV's 1996 and 1997 proposals submitted in the grant competition process, GARs for 1995, 1996, and 1997, Program Integrity Certification for 1997; various automated reports from the CHARM system, and selected time keeping reports. LSNV's Executive Director, Deputy Executive Director, managing attorneys, staff attorneys, paralegals, information system specialists, and support staff were interviewed. A random sample of open and closed files was selected and reviewed in detail.

We performed the audit in accordance with *Government Auditing Standards* (1994 revision) established by the Comptroller General of the United States and under authority of the Inspector General Act of 1978, as amended and Public Law 105-119, incorporating by reference Public Law 104-134 §509(g). The OIG discussed the audit results and proposed recommendations with LSNV's Executive Director and his staff.

RESULTS OF AUDIT

CASE MANAGEMENT REPORTING

LSNV inaccurately reported, in the Grant Activity Report (GAR), the number of cases closed during calendar year 1997 and the cases remaining open at year-end. Generally, the number of cases was overstated, that is more cases were reported as open and closed than actually were open and closed. In addition there were numerous errors in the CHARM database that tracks LSNV's cases. These problems occurred and were not detected because controls over the intake and processing of client data were inadequate.

LSNV management has recognized that improvements are needed in the reliability of client data and has started corrective action. However, more needs to be done. On page 11 we make recommendations that will help ensure future GARs are accurate.

Case Management Reporting Requirements

LSC requires recipients to submit an annual GAR summarizing the previous year's activity. The report contains statistical data on open and closed cases and provides LSC and other interested parties information on the extent and types of work performed by legal services programs. This information includes total number of cases worked on, types of legal issues handled, number of open and closed cases and the reasons cases are closed. The report also includes information on Private Attorney Involvement (PAI) cases. LSNV's 1997 GAR provided the following information.

Type of Legal Problem	Closed Cases	Open Cases
Consumer/Finance	764	1,075
Education	25	37
Employment	349	120
Family	1,409	1,527
Juvenile	4	13
Health	126	153
Housing	663	677
Income Maintenance	558	836
Individual Rights	18	16
Miscellaneous	250	495
TOTAL	4,166	4,949

LSC uses the information that recipients provide to report to Congress on the Corporation's annual activities, and publishes the information in an annual "Fact Book." LSC's Performance Plan, prepared in accordance with the Government Performance and Results Act, uses closed cases as a key measure of the Corporation's effectiveness. Case statistical data is also used to evaluate grantees as part of the competition process.

Closed Cases

The number of closed cases LSNV reported for 1997 was overstated by about 559 cases or 13 percent. Additional overstatements occurred but because records were lacking we could not estimate the number. The overstatement was attributable to: (1) double counting of PAI cases, and reporting of (2) cases closed in previous years, (3) cases not funded by LSC, and (4) ineligible clients.

- Some PAI closed cases were counted twice. When LSNV referred a client to a private attorney after LSNV staff worked on the case, it closed the case in the CHARM system. The case was again closed when the private attorney provided documentation that the client had been served and no further action would be taken on the case. For 1997, LSNV overstated closed PAI cases by 170.
- Cases closed or that should have been closed in previous years were reported as closed in 1997. LSNV reported 389 cases for advice and counsel or other brief services that were provided in prior years and which were closed or should have been closed in those years. These cases were not part of LSNV's 1997 workload and should not have been reported as closed for the year.
- Cases not funded by LSC were reported as closed. LSC policy requires the reporting of cases that are fully or partially funded by LSC. LSNV reported all cases closed during the year to LSC, even though LSC provided only about 18 percent of LSNV's funding. We could not estimate the number of cases reported for non-LSC funded clients because LSNV did not distinguish between LSC and non-LSC clients in the CHARM data base.

Grantee Comment. LSNV's comments stated that the only PAI cases counted twice were those that were worked on by LSNV staff prior to referral to the PAI attorney. There were 170 such cases. LSNV's comments also stated that the program tracks clients by LSC eligibility categories and that more than 80 percent of the clients served were eligible under LSC guidelines. Unless otherwise directed, LSNV planned to continue reporting all cases, regardless of funding source.

OIG Response. We modified the report to show that 170 PAI cases were counted twice. Eligibility is not the issue with respect to reporting closed cases. LSC guidelines state that only cases funded, fully or partially, with LSC funds should be reported. LSNV did not comply with this requirement. The LSNV response indicated that 20 percent of its cases are not eligible for LSC funding. Therefore, at the very least, they should not have been reported.

- Cases were opened and later closed for ineligible clients. Individuals were accepted as clients and case numbers assigned at the intake point, prior to the eligibility determination. In some cases where the individual was later found to be ineligible, the case was closed and reported to LSC. We were unable to estimate the overreporting of such cases because data was not available.

Open Cases

The preceding data indicates a significant problem with reporting closed cases. Another problem was the overstatement of the number of cases in the file of open cases. This is important because the open cases are eventually closed and reported to LSC. If the number of open cases is incorrect the number of reported closed cases eventually will also be incorrect.

The CHARM system included 4,771 open cases for 1997 (this number is 178 less than the number reported to LSC). We estimated that this number is overstated by at least 3,432 cases or 72 percent. Many of these cases were old, were no longer being serviced and should have been closed in prior years. Other cases duplicated cases that had been closed and reported to LSC in previous years. Some open cases had a closing memorandum in the paper file but had not been closed in the CHARM data base. The following chart shows the age of the LSNV reported open cases.

YEAR OPENED	NUMBER OF CASES
1997	1,277
1996	692
1995	1,116
1994	477
1993	482
1992	380
1991	150
1990	92
1989 & Prior	105
TOTAL	4,771

Of the 4,771 open cases, 2,802 were opened prior to 1996 and most likely should have been closed. The vast majority of LSNV cases are for counsel and advice or other brief services and should be closed shortly after they are opened. In addition to the age of the cases, our review of sample cases indicated that 32 percent of the open cases had a closure memorandum in the file and should have been closed. Applying this percentage to the 1,969 cases

opened in 1997 and 1996, we estimated that another 630 cases should be closed. In total, we estimated that about 3,432 (2802 + 630) of the open cases should be closed in the case management system

Although the cases should be closed in the case management system, they should not be reported to LSC. Many have already been reported. The others are old cases that have not been serviced for some length of time. Therefore, it would be inappropriate to report them as a reflection of LSNV's current workload.

We recognize that LSNV may provide service on a small number of cases over several years duration. However, these cases should be the exception and they could not account for a significant part of the older open cases. This is especially true because a large part of LSNV's cases are for counsel and advice or brief services which by definition should not extend for a long period of time.

Grantee Comment. LSNV management acknowledged deficiencies in its case management statistics and stated that efforts were underway to correct the problems. LSNV maintained that, based on the data in the report, it had been undercounting cases by an average of 380 cases per year. This calculation was based on the draft audit report statement that "... about 3,435 open cases should be closed."

OIG Response. LSNV apparently assumed that these open cases were valid cases that had not been closed. This is not correct. Many of the 3,435 reported open cases had previously been closed and reported to LSC and the case management system did not reflect the closure.

OTHER CASE MANAGEMENT ISSUES

Three other problems concerning LSNV's case management system surfaced during our review. Specifically, (1) files could not be located on a timely basis, (2) case numbers were incorrect for many clients, and (3) the staff members responsible for client cases were incorrectly identified in the CHARM system.

- Case files were not readily available. LSNV could not locate 21 files from our sample of 90 files. The files were not found during a four week period despite an intense search by LSNV staff.
- Incorrect case numbers were assigned to many clients' cases. Case numbers were incorrect for 29 of 90 sampled cases. The problem occurred because the case numbering system was inadequate. Case numbers were assigned based on the first letter of the client's first name, the first two letters of the last name, and the intake date. Given the number of letters and digits involved the system was inherently vulnerable to mistakes, as indicated by the 32 percent error rate.
- The attorney or paralegal responsible for client cases was misidentified in 16 of the 90 sample cases. Either the individual recorded in CHARM as assigned to a client's case was not working with the client or the system recorded the case as unassigned to any staff member. A related problem was delays in reassigning cases when staff left LSNV's employment. Some cases were not reassigned in the case management system until months after the departure of the assigned attorney. In one instance, a client's case was not assigned to another attorney for almost six months following the departure of an attorney. The mistake was found when the client eventually came into the office to inquire about the case. However, a critical filing date was missed and the client received reduced Social Security benefits.

Grantee Comment. LSNV acknowledged problems in promptly getting case data changes and updates into the case management system. LSNV asserted that no malpractice occurred on a scale suggested by the report and pointed out that no malpractice suits had been brought against the program. LSNV disputed the one example in the report and stated that the benefits lost were not the result of LSNV negligence.

OIG Response. Sixteen cases out of a sample of 90 cases (18 percent) were assigned an unidentified or misidentified attorney or paralegal. The facts in the case were verified by the client and managing attorney. In addition, a substantial number of cases were still listed in the case management system under the name of the attorney who was no longer employed by LSNV. We also obtained an internal LSNV document that stated the program had hundreds of open cases that did not have a current LSNV attorney or paralegal assigned.

The above three problems are not simply record keeping deficiencies. They could directly affect the quality of service LSNV provides to clients. A program such as LSNV that services thousands of clients per year, cannot effectively manage its cases without a reliable automated case management system. The program simply could not keep track of its large number of cases and clients, nor could it effectively check for potential conflicts, without an automated system. An automated system, moreover, is not useful unless the data is correct and up-to-date. LSNV's automated system is deficient on both counts.

MANUAL AND AUTOMATED SYSTEMS DEFICIENCIES CAUSED CASE MANAGEMENT PROBLEMS

LSNV's manual and automated systems were the principal cause of inaccuracies in the reported case management statistics and the other case management problems. The CHARM system at LSNV's main office was not electronically linked with all branch offices. This resulted in errors in data and delays in entering data into CHARM. Data was handled manually several times which inherently increased the risk that errors would be made. For example, a client made an appointment to see an attorney at a branch office by telephoning the main office. Because the two offices were not electronically linked, the appointment data was not promptly transmitted to the branch office. The client kept the appointment and a second case number was assigned because the original case number had not been received from the main office. When this data was entered into CHARM, the same case was in the system twice but only one entry would be closed when action on the case was completed.

Management controls over CHARM need to be improved. The case numbering system was complicated and allowed duplicate cases to enter the system as well as incorrect case numbers. The annual case statistics reported in the GAR were not validated and approved by LSNV management. LSNV did not have a regular, systematic process for validating cases in the CHARM data base and purging invalid cases. Management did not review the CHARM data on open and closed cases to ensure that it was reasonably accurate. Considering the overall lack of system controls, such reviews would help detect errors that could be promptly corrected to make system data more reliable.

LSNV Actions to Improve Case Reporting

During our review, LSNV management took action to correct the CHARM data base and to improve the accuracy of case statistics reporting. Lists of open cases from CHARM were circulated to case handlers for review, validation and corrective action. The primary thrust of this effort was to close as many cases as possible. LSNV management also issued an instruction, effective May 1, 1998, establishing procedures covering the closing of cases and establishing quality control checks to improve the integrity and reliability of case and client information in CHARM. These procedures emphasized the importance of promptly closing cases and stated that closures must be communicated to clients and entered into CHARM. The instruction also required advocates and supervisors to review cases in CHARM each quarter.

Conclusions

The data that LSNV reported for open and closed cases for 1997 in the GAR was significantly inaccurate. The problems were caused by deficiencies in LSNV's manual processes and the automated CHARM system. LSNV has recognized the need to improve reporting and started corrective actions. However, much more needs to be done. Care must be taken to ensure that the current initiatives continue. Better management controls over the intake, processing and reporting of client cases need to be established. The automated case management data base needs to be corrected and accurately maintained to ensure the accuracy of future GARs. Management controls over the intake process need to be established so that cases are not opened for ineligible individuals. All branch offices need to be electronically linked with the computer system in the main office. A better case numbering system needs to be established and controls provided to guard against duplicate cases entering the system. Most important, LSNV management must provide oversight and supervisory review to ensure that accurate case statistics are maintained and reported to LSC.

Recommendations

.We recommend that LSNV:

1. Validate the data in the current case management system data base.
2. Establish procedures for validating the accuracy of the data base by circulating to managing attorneys and staff, at least quarterly, case management system reports on open and closed cases so that errors may be corrected.
3. Validate the accuracy of future GAR reports before submitting them to LSC.
4. Establish procedures to promptly transfer cases in the case management system when attorneys leave LSNV.
5. Establish procedures that simplify case numbering.
6. Establish procedures, manual and automated, to guard against the same case being entered more than once into the case management system.
7. Link the branch offices and main office computer system with the objective of providing case handlers "real-time" access to client information by 1999.

LSNV reported taking actions that, generally, would meet the intent of the recommendations. The recommendations will remain open until the corrective actions have been completed.

TIME KEEPING SYSTEM

LSNV's time keeping system did not comply fully with LSC's requirements established in 45 CFR 1635, which required that attorneys and paralegals account for all the time for which they are paid. LSNV's time keeping system did not account for all time for which the attorneys and paralegals were paid. We compared nine employees' payroll records and time keeping records for one month in 1997 and three months in 1998. The payroll records showed 362 more hours worked than corresponding timekeeping records.

Recommendation

.We recommend that the LSNV:

1. Establish procedures for reviewing timekeeping records to ensure they accurately reflect the hours for which employees are paid.

Grantee Comment. LSNV did not respond to this recommendation. The recommendation will remain open until corrective action is completed. Also, LSNV took exception to an interpretation relating to holiday and leave time.

OIG Response. We recognize that a strict reading of regulation 1635 on time keeping could lead to the conclusion that it is not necessary to account for leave and holiday time. We modified the report to delete the reference to leave and holiday time and eliminated the corresponding recommendation. We will address the issue with LSC management.

PROHIBITED AND RESTRICTED ACTIVITIES

Public Law 104-134, incorporated by reference in Public Law 105-119, imposed restrictions and prohibitions on the types of services LSC grantees may provide to clients. The law, among other restrictions, precludes grantees from representing clients: (1) in class action suits, (2) in certain prisoner litigation, (3) in some eviction cases involving illegal drugs, and (4) who are illegal aliens (with some limited exceptions).

LSNV has procedures implementing the LSC regulation and our review of LSNV records did not disclose violations of the above restrictions and prohibitions. However, the procedures covering alien representation, which require case handlers to determine eligibility, were not always followed. A review of

65 case files disclosed that 10 files did not include a signed citizen attestation form or alien eligibility documentation. Because this information was missing, LSNV has no documented assurance that these 10 clients were eligible for assistance.

Recommendation

We recommend that LSNV:

1. Remind case handlers, in writing, that the procedures for documenting client eligibility must be consistently followed.

Grantee Comments. LSNV's comments agreed with the findings on prohibited and restricted activities. The comments indicated that corrective actions were underway. The recommendation will remain open until the action has been completed.

OIG Response. LSNV's comments were responsive to the report and recommendations.



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9/11/98

**To: Office of Inspector General (OIG), Legal Services Corporation
Attn: Len Koczur, Assistant Inspector General for Audit**

From: C. Vasaly, Executive Director Legal Services of Northern Virginia

Re: OIG "test site" compliance audit of selected (1) service reports to LSC and LSNV case management systems and (2) LSC regulations which restrict service delivery; draft report; LSNV response

We are in receipt of your draft report. Thanks for giving us time to review it with staff. Pursuant to that review, this memo includes our general observations, factual clarifications or corrections to specific statements and/or allegations in the report, and my brief response/program update to the 10 recommendations in the draft.

General Observations/Summary Comments by LSNV

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1. Time-keeping System/Reports. We are pleased that your six week visit and review of our new timekeeping system disclosed only "relatively minor problems"[page one]. We have addressed these problems (see recommendations 8 and 9 below). The draft underscores the importance of integrating time data with payroll information and we fully agree. The draft on page 9 indicates the results of a sampling of nine LSNV staff comparing their time and payroll records. The bottom line: staff were paid for 360+ hours more than supported by time-keeping. An auditor provided me the actual sampling results (see Attachment A), and they indicate that while most of this differential involves paid leave and holidays, 122 hours - unsupported by time-records - involved work days. While most advocates submit timely and complete time records, LSNV management must police timekeeping submissions to avoid such undercounting which could be very detrimental to our program since local funding sources require such tallies and have imposed "minimum advocacy hours standards".

2. Prohibited and Restricted Activities. LSNV Management is also pleased that auditors "did not find evidence that prohibitions and restrictions on class action suits, alien cases, evictions, and prisoner cases were being violated". We do have various new forms and policy guides to help alert staff and insure compliance with these various new restrictions. We are also in the process of

revising our Intake Manual which will be put on-line in our new intranet. We expect significant improvements in our central intake system (see 3 below), and while some documentation was found lacking, I believe our committed and experienced intake staff serve as excellent gatekeepers for LSNV and have been key to insuring LSNV compliance in these sensitive areas.

3. LSNV's Case Management System(s): Staff/technology issues and development.

Information management is challenging at LSNV, given our multi-office structure, the variety and number of sources providing funding to LSNV, and our unusual local funding situation. Non-LSC funding accountably is growing and becoming more complex - including the submission of advocates time data and time data-driven fiscal reports. These new compliance needs impact on staff hiring/organizational decisions, and the need to have adequate numbers of competent fiscal, intake, and technically proficient staff in the program. But service levels and demands are also increasing, and that creates a counter pressure to seek and expend resources to increase the number of staff advocates in our program, including experienced attorneys, and to insure they are well-supported. Management must seek optimum and cost effective program configurations which balance these competing but linked needs. When the OIG visit occurred in April, LSNV was struggling with the non-advocacy side of this staff balance. While the OIG auditors did not focus on other funding source requirements, and while we do not agree with accuracy of some of the funding or the performance implications which draft implies from our data (see below), the draft report is correct in reflecting our difficulties, problems, and inefficiencies in not having a fully-automated, error-protected, WAN-linked case management/intake system which could be used by management staff and staff to insure high productivity, minimize data losses, and provide reliable data outputs. We have had this goal for a long time, but our transition from our current model-T situation has been slow - too slow.

The OIG visit did spur management to rethink and propose to the LSNV board some programmatic changes, which were adopted, to better integrate technology management with intake and other related information management functions. These various functions and staff were combined under a "Operational Systems/Support Manager". See Attachment B. A former employee with great computer skills (who happens to also attend law school) was recruited to serve in this capacity. This transition has been jump-started and I am excited about what is now happening in our program. LSNV has embarked on an ambitious plan to upgrade its level of technology use, including new/improved systems to enhance intake and reporting/tracking capabilities. We have just received a major corporate in-kind gift of equipment, software, and technical assistance, to set up a state-of-the-art call processing center (central intake). We also expect to receive a technology grant soon from TRW which will help upgrade all our computer workstations. Our new Wide-Area-Network is operational. We have designed an Intranet homepage to link workstations which should be operational in September. We have a website ([http://members.AOL.com/LSNV Main](http://members.AOL.com/LSNV%20Main)) where visitors can download a number of our publications. Our E-mail system (MS Exchange) and servers (Windows NT) have been upgraded and we have begun to use a "replicating" programs to

automatically transfer database (case management) information between offices using a dial-up modem system. This month we are installing an upgrade to our case management system (CHARM 98 - based on John Kemp's ACCESS 97 version of Clients 2000 for Windows).

4. LSNV's Case Management System(s): GAR (Grant Activity Reports) submitted to LSC.

The majority of the of more critical comments in the draft, deal with observed and/or perceived deficiencies involving the reporting of certain case statistics and the nature LSNV's current version of CHARM. We openly discussed key problems with auditors upon their arrival - including the fact that many cases shown as "open" in the case management database were in fact closed. While the draft does acknowledge LSNV efforts to improve/enhance various aspects of the data collection and reporting process, it should be made clear in the report that LSNV efforts to update "open" cases in the database were underway long before we knew LSNV was going to be audited by OIG. If necessary, we can easily document this fact. We certainly can be criticized for not rectifying this problem. But we were well aware that it existed and were making efforts to identify the final dispositions of cases shown in the database as still open which we believed were no longer active.

While we acknowledge these deficiencies and others, we found some statements made in the draft to be inaccurate and/ or linked to unsupported and/or invalid conclusions relating to the quality of service being provided. In some cases, the facts alleged support - we believe - opposite conclusions. We address some of these discontinuities and mistakes of fact below. I agree with my staff that the particular OIG auditor that focused on this area seemed absolutely determined while he was here from his discussions with us to prove that LSNV significantly "over-reports" case numbers to LSC. This theme is reflected in the draft but draft also clearly concludes in a number of places that we are also under-reporting a significant number of cases. Perhaps, any battle over "under-reporting" or "over-reporting" is a red herring since the key LSC report form in question and its data fields ("reasons cases closed") is totally inadequate in terms of serving as a measure of the actual work being done by legal services programs. But assuming this form remains sacrosanct and serves as the key document for showing LSC and Congress what legal service programs are doing, the issue requires clarification and a balanced judgment.

The draft includes estimates and findings to the effect that a significant number of LSNV cases which had terminated had not been closed in the computer and hence were not reported as closed when they should have been. In reality, our ineptitude works both ways, and in fact, on balance, we are shooting ourselves in the foot. We have had a significant data loss problem in a critical area. We fully agree with the statement in the draft that LSC values and uses the number of closed cases as the touchstone for measuring program performance - not the number of open cases. In the draft report the auditors concluded "in total, about 3435 of the open cases should [have been] closed" (page 6). If their calculations are right - and this is a problem we acknowledge - we have been habitually undercounting our closed cases by an average of about 380 cases each year (32% by their calculations) for the last nine years. We are fixing this problem. It's certainly in our interest to do

so.

Factual Clarification/ Corrections (referencing report findings/allegations)

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1. "We estimate that about 800 cases were improperly reported as closed during the year" [page 1 and page 4]. According to the draft, " PAI cases are closed twice...For 1997, we estimate that LSNV overstated closed PAI cases by 408" (page 4) and "LSNV reported 389 cases for advice and counsel or other brief services that were provided in prior years and were closed or should have been closed in those years".

The estimate is patently incorrect. Only 170 PAI cases were referred to the private bar after initial staff attorney involvement - not 408. More than 85% of our closed PAI cases in 1997 had no staff attorney involvement and are entered into our case management system only once. We plead guilty to tracking both the staff involvement and the separate pro bono activity in these 170 cases. We did not "double" count these cases as pro bono. The actual OIG position/interpretation, as explained to me, is simply that if a program reports cases as "pro bono", none of these cases can also be reported as staff cases - even if staff resources are expended or if different elements of the same case are dealt with by staff. If LSC wants to undercount the work of legal aid programs or force programs to minimize their pro bono work in order not to risk under representing the work of staff - so be it. But this is an unnecessary Hobson's choice. At a minimum - if connected pro bono/staff cases cannot be separated, the OIG should request LSC to require programs to run a separate report showing cases which involved both staff and pro bono work.

Assuming the OIG auditors are absolutely correct in their additional allegation and Non-legal judgement that 389 of our 1997 closed cases involving advice/brief service "*should have been closed*", such a finding supports an obvious and very different conclusion: **LSNV undercounted closed advice/brief service cases in prior years and probably undercounted again in 1997 by not entering closing information in the computer on about 300+ such cases.** In fact, that is exactly what the OIG draft concludes elsewhere (see page 6) where it states "*we estimate another 630 cases should [have been reported closed of those] opened in 1997 and 1996*". LSNV has an entrenched - year to year - undercount problem re reporting the number of actual closed cases. This draft says that and we don't dispute that many of our "open" cases in our data should have been closed. Fault us on that. But it is inaccurate, misleading, and inconsistent with the all other findings in this draft to suggest we over counted closed cases by more than 800 in 1997.

2. "The attorneys or paralegals responsible for client cases were incorrectly identified for almost for almost 18 percent of our sample cases. When individuals left Legal Services of No.

Va. employment, their case were not promptly reassigned to another attorney or paralegal. As a result, the level of service provided to clients was adversely affected [page 1]". "Weeks and even months went by before cases were reassigned. In one instance...a critical filing date was missed and the client received reduced Social Security benefits"

There is no question that LSNV has had problems getting on-going case data changes/updates into our case management system on a timely basis. Sometimes, this problem includes recording the name of a new advocate when a case is transferred. And sometimes, such changes are not recorded. This is not good and it hampers using the data base to find who is handling a particular case. But the draft confuses a recordation of reality with reality. There is absolutely no evidence of such malpractice happening in this program on the scale which is suggested by above noted statements in the draft. In fact, the Virginia State Bar had never brought a disciplinary action against LSNV attorney managers/staff since our beginning as a program 18 years ago. No malpractice suits have ever been brought against LSNV staff - somewhat remarkable considering the more than 100,000 cases which have been handled.

We certainly are not immune from transition related problems, even though LSNV has procedures and checklist (see Attachment C) to insure continuity of services and professionalism. But the one example the draft uses to support this attack on the professionalism of staff misstates the facts of the case in question, according to the attorney manager who spoke with this particular Non-lawyer auditor. The client in that case, whom the auditor actually spoke with, had his SSI benefits terminated in early 1997 - a result caused by a change in the SS law which required such recipients to refile. We continue to represent this individual and are awaiting an ALJ hearing. The benefits lost in 1997 was not the result of LSNV negligence.

3. "Cases not funded by LSC were reported as closed" (page 5)

LSNV tracks its clients by eligibility categories. "LSC eligible clients" is one category. It is true that LSC provides only 18% of our funds - not much more in dollars than it did 18 years ago. But more than 80% of the clients we serve are eligible under LSC guidelines for our services. I know of no grant assurance or LSC regulation or correspondence from LSC requiring LSNV to pro rate (and reduce) the LSC data by this percentage. We may be including some Title III Non -means-tested clients in these LSC totals - and they should be rightly excluded. If LSC wants to establish cost-reimbursable funding based on mutually contracted hourly rate, we will certain conform and only report LSC work up to our annual cap. Unless instructed otherwise how to do it, we will continue to include leveraged funds which help us serve more LSC eligible clients.

OIG Recommendations/LSNV Responses

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1. "Link the branch offices...providing case handlers "real time" access to client information by 1999"

LSNV's Computer/MIS manager [now the Manager of our Operational Systems/Support group] first proposed plans to link the branch offices and the main office computer system in early 1997. I have already discussed in this response our newest developments, including the replication of data capabilities and our new WAN. We will be at the point of leading our case handlers "to the water" this fall. Getting them to drink will be our next challenge and we are planning the requisite training.

2. "Validate the data in the CHARM data base"

LSNV's Computer/MIS manager identified problems with unclosed and duplicate cases in 1997. He developed various error tracking routines to capture duplications. His successor continued efforts to validate "open" cases in the data base [Project "Closem"]. See #3 below for more information on how Project "Closem" operates. Since discovering these problems in early 1997, LSNV's MIS staff have been careful to screen out cases with duplicate ID's before reporting them to LSC. While OIG auditors were on-site we revised our instruction (which is noted in the draft) to include further increase data integrity and to clarify the responsibility of attorney managers in that regard. As indicated above, "validation" to us also means that we insure through systems and oversight that we are not failing to capture case work information.

3. "Establish procedures for validating the accuracy of the data base by circulating...at least quarterly, CHARM reports on open and closed cases".

Again, the draft-referenced LSNV instruction on point provides over-sight specifics. At the end of each quarter we are printing out lists of open cases for each Practice Group Manager. The Practice Group Managers are responsible for verifying that each open case is being actively handled by their staff (or reasons exist for maintaining the file in open staff per LSNV's instruction). If this is not case, managers will close such cases based on the last activity. If it is not possible to determine an appropriate "reason case closed" code, they will be closed using a special code so that they will not be reported to LSC.

4. "Validate the accuracy of future CHARM reports before submitting them to LSC"

As indicated by our response in this memo, there are many developments underway at LSNV which should provide additional error-trapping, less data losses, and enhanced integrity of our service related data bases. LSNV management has always looked for data anomalies before reports are sent to our many different funding sources. I think we have already addressed the nature of the LSC data problems.

5. "Establish procedures to promptly transfer cases when attorneys leave LSNV".

As stated above, LSNV acknowledges a data entry problem in this regard. But the procedures have long been in place (see Attachment C) to insure services are not disrupted or clients rights are not jeopardized. This data entry problem does not support a conclusion that LSNV staff are unprofessional.

6. " Establish procedures that simplify case numbering"

This was a problem of intake worker data entry errors - and one particular situation that went on for months and a failure by LSNV to oversee and correct the problem. There was nothing wrong with the case numbering logic itself, which has always been relatively simple. Even where attorneys are asked to enter the name of their client in their time records, we have noted creative and varied spellings of such names. These kind of problems would occur with any case numbering scheme if dependent on data entry. Our new CHARM upgrade, however, automatically generates our case ID number, so the problem should be moot once the initial file is opened. We are also modifying our timekeeping program, using pull-down menus linked to the main database, to preclude attorneys/paralegals from having to enter either the client name or the ID number when tracking their time.

7. "Establish procedures...to guard against the same case being entered more than once into the CHARM system"

With the new WAN and replicating software, we have additional safeguards. Again, we have had procedures in place of several years to screen out duplicate numbers before reporting our case numbers to LSC. If there was any inadequacy with these procedures, our new automation should minimize these kind of problem in the future.

8. "Establish procedures for reviewing timekeeping records to ensure they accurately reflect the hours for which employees are paid.

9. "Modify the time keeping system to account for leave and holiday time"

Many staff are noting such leave/holidays on their time sheets. We believe, however, that a careful reading of the applicable regulations does not require LSNC to account for leave and holiday time in the timekeeping system. We urge OIG to address this matter internally. Again, in our case, we do reconcile time information and payroll related information, including leave/holiday time, on our leave form (LSNV 2006.1H).

10. "Remind case handlers, in writing, that procedures for documenting client eligibility must be consistently followed."

This is absolutely essential. The written requirements are in place. It is our responsibility to provide the needed training and oversight on a regular basis - and we will do so. Next training - at our scheduled all-staff meeting is on Oct. 2nd.