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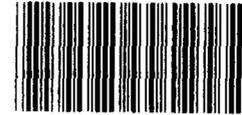
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STATEMENT OF

FRANKLIN A. CURTIS

ASSOCIATE DIRECTOR



123848

HUMAN RESOURCES DIVISION

BEFORE THE

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

ON THE

LEGAL SERVICES CORPORATION

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Mr. Chairman and Members of the Committee, we are pleased to be here today to discuss our review of 1980 and 1981 efforts by the Legal Services Corporation (LSC) and the local programs it funds to insure continued federal funding of LSC and oppose additional restrictions on program activities.

In response to your and Senator Denton's July 18, 1983, request, GAO initiated a survey of LSC's efforts to insure its survival and other matters. In September 1983, we issued a legal opinion¹ which concluded that certain LSC documents and other materials you provided us indicated violations of statutory restrictions on LSC and local program activities. In January 1984, we agreed with your office to focus this phase of our review on determining whether LSC-funded programs in Texas and other states within LSC's Denver region performed survival-related activities which violated applicable laws, regulations, and policies.

PRIOR GAO LEGAL OPINIONS AND
RECOMMENDATIONS ON LSC LOBBYING

An August 1980 GAO report² and November 1980 legal opinion³ recommended that LSC revise its regulations to specifically define the legislative restrictions on lobbying activities and the types of activities that local programs may not engage in. LSC, however, continued to broadly interpret the exceptions

¹B-210338/B-202116, September 19, 1983.

²Review of Legal Services Corporation's Activities Concerning Program Evaluation and Expansion (HRD-80-103, Aug. 28, 1980).

³Legal opinion to Representative Benjamin A. Gilman (B-163762, Nov. 24, 1980).

to statutory lobbying restrictions until May 1981 and did not approve more specific lobbying regulations for LSC-funded programs until 1983.

In our August 1980 report we noted that exceptions to the statutory prohibition of lobbying activities by LSC-funded programs gave the programs wide latitude to engage in these activities, which had raised congressional concerns about the propriety of such lobbying. We recommended that LSC (1) revise its regulations to more specifically define the legislative restrictions on local programs' lobbying activities and the types of activities that are not permissible and (2) implement procedures to insure compliance with the lobbying restrictions.

In our November 1980 legal opinion, we again addressed LSC's authority to expend appropriated funds for lobbying activities. We concluded that LSC's authorizing legislation and restrictions on the use of its appropriations prohibited LSC and its grantees from expending appropriated funds for publicity or propaganda purposes, such as "grass roots" letter writing and telephone campaigns, designed to induce the public to contact elected representatives for the purpose of influencing legislation pending in the Congress or in any state legislature. We pointed out that LSC's regulations did not clearly define which lobbying activities were prohibited and which were permitted. We again recommended that LSC revise its regulations to clarify its policy guidance on lobbying activities and fully explain the statutory restrictions on those activities. We also

recommended that LSC include appropriate restrictions in grant instruments and contracts with providers of legal assistance to insure that LSC-funded recipients had actual knowledge of these restrictions on grass roots lobbying.

In a December 2, 1980, letter, LSC's president told us that its general counsel would raise the issues covered in our November 1980 legal opinion with the board of directors.

Although LSC approved revised regulations in March 1981, they did not address the concerns which led to our recommendations.

In February 1981, a member of Congress asked GAO to review documents he had obtained from LSC relating to its survival campaign and determine whether any of the activities described in the documents violated statutory anti-lobbying restrictions. In a May 1981 legal opinion⁴ we again concluded that LSC had erroneously construed its authorizing legislation so as to enable LSC and its fund recipients to expend appropriated funds to solicit the public to contact members of Congress concerning legislation affecting LSC or the recipients.

LSC's president responded to our May 1, 1981, opinion by stating that LSC disagreed with GAO's interpretation of the applicable legal provisions restricting lobbying activities. He said that LSC's view was that it and its recipients had authority to expend federal funds on grass roots lobbying campaigns

⁴Legal opinion to Representative F. James Sensenbrenner, Jr. (B-202116, May 1, 1981).

concerning legislation that affected LSC or the recipients. However, the president told us he had directed all LSC employees to stop all activities coming within our definition of grass roots lobbying and would notify the board of directors of our opinion and request that the board consider changes in regulations applicable to fund recipients.

Although we first recommended that LSC change its regulations restricting grass roots lobbying by fund recipients in August 1980, it was not until June 5, 1981, that LSC's president advised the board of our recommendation. In March 1983, about 2-1/2 years after we first recommended that LSC revise its lobbying regulations, LSC published revised anti-lobbying regulations for LSC-funded programs.

LSC INVOLVEMENT IN THE SURVIVAL EFFORT

Numerous LSC memoranda and discussions with former senior LSC staff⁵ indicate that during late 1980 and 1981, LSC's top priority was to build a local base of support to insure continued federal funding of legal services to the poor and oppose additional restrictions on LSC fund recipient activities. While former senior LSC staff acknowledged playing a leadership role in LSC's survival effort, they told us they did not require local programs to implement the strategies they

⁵Former senior LSC staff includes the president, the vice president for finance and management, the director and deputy director of the office of field services, the director of the research institute, and the director of the office of government relations.

devised because of their belief in local decisionmaking on the use of LSC funds. Nonetheless, former LSC senior staff said that they believed it was legal for LSC fund recipients to engage in grass roots lobbying on LSC's reauthorization and appropriation legislation because these matters directly affected them.

According to former LSC senior staff, initial plans for the survival effort were developed at the November 1980 annual meeting of the National Legal Aid and Defender Association in San Juan, Puerto Rico. An agenda for a meeting in San Juan included discussions of (1) establishing a national strategy committee to set strategy and policy to insure LSC's continuation, (2) identifying conservative supporters of LSC who could influence congressmen and senators, (3) establishing a communications network between state coordinators and LSC headquarters, (4) building coalitions with groups supporting LSC, including labor unions, church groups, the League of Women Voters, and others, (5) encouraging editorial support from the media, (6) developing direct mail and letter writing campaigns, and (7) encouraging development of an independent committee of conservative political and religious constituencies who supported LSC.

Following the San Juan meeting, LSC memoranda, many of which were included in this Committee's July 12, 1983, hearing record, indicate that LSC developed a detailed plan designed to urge persons interested in LSC programs to contact members of Congress and communicate their support for LSC reauthorization

and appropriations measures being considered by the Congress. These plans were implemented through regional project director meetings held nationwide during December 1980 and January 1981. According to LSC memoranda and former senior LSC officials, these meetings were intended to give program directors the information and training necessary to build a local base of support, which they believed was essential to insuring the survival of legal services. According to a December 4, 1980, memorandum from LSC's office of field services, the regional meetings were to emphasize the need to (1) include state coordinators and others who have been part of "the legislative and political information/action network" in the survival effort, (2) develop state and sub-state action plans, and (3) insure that local program directors released program resources to build the local base of support. Further, a December 5, 1980, memorandum from LSC's office of field services directed LSC regional directors to "free up the resources and time" necessary to help build the local base of support of every program to assure the survival of that program and of legal services.

According to LSC's former president, he kept the board of directors informed of the survival effort through periodic communications. Board members also attended the regional project director meetings. The former president indicated that a January 9, 1981, memo to the board from the director of LSC's research institute accurately describes LSC's survival effort. The memo explains the scope of the "potential threat" to legal

services and the various coalition-building, networking, and grass roots lobbying efforts being undertaken by LSC and local program officials to insure not only the continuation of aggressive legal services, but the continuation of "aggressive impact advocacy to improve the lives and power of poor people."

Former senior LSC officials told us that they advised local programs on the strategies necessary to insure continued federal funding of legal services, but did not require them to perform these activities. However, the Denver regional director told us he viewed these as general directives to be implemented by local programs, and references in LSC memoranda to survival-related activities as essential and the top priority suggest that LSC senior staff intended local programs to implement these activities.

IMPLEMENTATION OF THE SURVIVAL
EFFORT BY LSC'S DENVER REGIONAL
OFFICE AND LOCAL PROGRAMS
WITHIN ITS REGION

At the January 1981 Denver regional office project directors meeting in Boulder, Colorado, LSC-funded programs in Texas and other states within the Denver region began developing state plans to implement LSC-developed strategies to build local bases of support for LSC. Our review of these state plans and local program efforts to obtain support for continued funding of LSC indicates that some of these activities were in our opinion prohibited by federal law.

Even before this meeting, LSC's Denver regional director was encouraging project directors within his region to solicit

support for LSC. In a November 19, 1980, memorandum, he urged project directors to

"...take immediate steps to broaden our base of support among elected and appointed officials, urban coalitions, the judiciary, labor officials, the private bar (all levels), community action programs, the broadcast and private media, low income groups, and others."

At the Boulder meeting, project directors from each state began developing state plans for building local bases of support in their states through relations with the media, private bar, congressional delegations, clients, and community groups.

At the Texas state meeting, for example, Texas project directors agreed to organize local grass roots campaigns to persuade their respective members of Congress to support LSC's reauthorization.

LSC's Denver regional director told us he was responsible for monitoring local program survival activities and insuring that they were consistent with LSC survival strategies.

Our review of survival activities in Texas and other states within LSC's Denver region identified grass roots lobbying activities that violated federal law.

Texas

In March 1981, the Denver regional director and LSC headquarters approved the creation of a Texas reauthorization project to develop an extensive information network to keep local programs in Texas informed of legislative developments in Washington, D.C. The reauthorization project, which was funded by a \$60,392 LSC grant, frequently asked local program staff to

Contact members of Congress to urge their support for LSC's reauthorization. While our review of documents related to this project and discussions with the project's director identified instances of lobbying activities which in our opinion violated federal law, the project was not engaged in an extensive grass roots lobbying effort.

The director of the reauthorization project told us that her interpretation of the LSC act and appropriation restrictions was that local program directors and staff could contact members of Congress to urge their support for LSC's reauthorization. However, they could not, unless on their own time, ask individuals not employed by LSC or local programs it funded to contact their congressmen.

We also identified instances of grass roots lobbying by other LSC-funded local programs in Texas to generate support for LSC's reauthorization. These activities included generating support from numerous bar associations, judges, elected officials, community organizations, and others.

In May 1981 the director of the reauthorization project established Texans for Equal Justice (TEJ), a privately funded bipartisan group of distinguished Texans, to lobby for LSC's preservation. This group included attorneys, judges, elected officials, bar association officials, religious leaders, labor leaders, and law school professors and deans.

According to the reauthorization project director, TEJ was established without LSC funds because it was going to be involved

in activities prohibited by federal law. To avoid engaging in prohibited activities during working hours, she reduced her employment with an LSC-funded local program to half-time, and worked on TEJ matters out of her home on her own time. She told us she was not compensated for her TEJ activities.

Arizona

According to LSC's Denver regional director and the Arizona state plan, LSC funded programs in Arizona performed various survival-related activities, including

- soliciting supportive resolutions from local bar associations,
- soliciting favorable media coverage and editorial support,
- persuading clients to engage in letter writing and telephone campaigns to congressional offices, and
- soliciting support from and forming alliances with community organizations.

LSC's Denver regional director acknowledged that performing these activities likely would have taken considerable time.

Colorado

The state plan for LSC-funded local programs in Colorado detailed various survival-related activities, including

- soliciting supportive letters from individuals and community groups,
- establishing letter writing quotas for employees of one local program, and
- obtaining favorable media coverage and editorial support.

A statement in a January 1981 newsletter from the Colorado Coalition of Legal Services Programs, the state support center, summarizes activities local legal services staff were encouraged to undertake:

"...each local office and each individual staff, client and board member will be called on to become effective advocates. It is absolutely essential that each of us become involved, identify supporters, develop media contacts and respond to requests from the national and state programs."

New Mexico

LSC-funded programs in New Mexico organized a statewide committee for the survival of legal services which developed a list of specific tasks to insure LSC's survival. The tasks included

- getting clients to send weekly letters to members of Congress,
- providing clients with information to be used in letters to congressmen and cautioning that this information not be used for form letters,
- arranging for client groups to meet with members of Congress, and
- encouraging staff to write letters supporting LSC to local newspaper editors and obtaining favorable radio and television coverage.

According to a New Mexico program memorandum, the caseloads of certain local program attorneys were reduced by 10 or 15 cases to facilitate performing these activities.

Denver Regional Director's Interpretation
of Permissible Activities

According to LSC's Denver regional director, grass roots lobbying activities, such as those described above, were permissible under the LSC act because the lobbying concerned legislation directly affecting LSC and the local programs it funded. Although he acknowledged that LSC-funded programs within LSC's Denver region engaged in grass roots lobbying activities in early 1981, he told us these activities stopped in May 1981 after he directed the local programs in his region to comply with GAO's May 1981 legal opinion.

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This concludes our statement Mr. Chairman. We would be happy to answer any questions you or other members of the Committee have at this time.