

COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON D.C. 20548

L. L. LUPTON  
EGM

B-210338/B-202116



September 19, 1986

26315

The Honorable Jeremiah Denton  
Chairman, Subcommittee on Family and Human Services  
Committee on Labor and Human Resources  
United States Senate

Dear Mr. Chairman:

This is in response to your recent letters requesting this Office to render a legal opinion concerning whether any of the documents and other materials that you recently obtained from the Legal Services Corporation (LSC) files and turned over to this Office, contain evidence of violations of certain restrictions in the Legal Services Corporation Act of 1974 (42 U.S.C. § 2996).

BACKGROUND

At the end of 1980, Representative Sensenbrenner provided this Office with certain internal memoranda he had obtained from the LSC and requested an opinion on whether these documents indicated that the Corporation had violated Federal anti-lobbying laws. We rendered our opinion in 60 Comp. Gen. 423 on May 1, 1981, holding that the material in the memoranda indicated that LSC had itself engaged and allowed its grant recipients to engage in lobbying activities prohibited by Federal law. You have now provided us with several hundred additional internal memoranda and other materials from the LSC headquarters and regional office files covering primarily the 1981 calendar year period and have requested a determination concerning whether these materials contain evidence indicating that LSC or its fund recipients violated statutory restrictions on its training and coalition building activities as well as restrictions on advocating or opposing ballot measures, initiatives and referendums.

It would require several months for us to review the enormous volume of material you have supplied and we plan to accomplish this task in connection with our investigation of the LSC survival plan that you requested. However, in order to comply with the short time frame of your request to provide you with a response regarding the issues referred to above by mid-September 1983, we have selected certain material, that in our opinion, indicate violations of restrictions you mentioned.

02677

122423

TRAINING SESSION

One piece of documentary evidence we reviewed was a video cassette recording of a training session at a Denver Regional Project Directors meeting conducted by the Corporation and certain grantees beginning on January 12, 1981, at the Hilton Harvest House in Boulder, Colorado. Similar meetings were held at the other regional offices during December and January 1981. Several officials from the Corporation headquarters in Washington and from grantee organizations located in the Western region of the country were present at the session and made presentations. These officials included Dan Bradley, President of the Corporation, Jeanne Connolly, Assistant Director of the Corporation's Government Relations Office, Alan Houseman, Director of the LSC Research Institute, Jonathan Asher, Executive Director of the Legal Aid Society of Metropolitan Denver, Alan Rader, Staff attorney with the Western Center on Law and Poverty in Los Angeles, a Corporation-funded California State Support Center and Don Wharton from the Oregon Legal Services Corporation, a Corporation-funded Oregon State Support Center. The session was attended by approximately 100 persons, including program officials and staff attorneys from states comprising the Denver region and representatives of outside organizations.

We have summarized and in some cases quoted from the presentations of the above-mentioned speakers. This material is included as Appendix I. In analyzing the content of the first day presentations contained on the recording, we must conclude that the remarks of the speakers provide evidence of violations of statutory restrictions on the use of Corporation funds for certain activities which we shall explain below.

TRAINING PROHIBITION

The training prohibition is contained in 42 U.S.C. § 2996f(b)(6) and reads as follows:

"(b) No funds made available by the Corporation under this subchapter, either by grant or contract, may be used--"

"(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;"

This provision restricts grantees and contractors from using funds provided by the Corporation to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities as distinguished from the dissemination of information about such policies or activities.

The legislative history contained in the House Committee on Education and Labor Report to accompany H.R. 7824, The Legal Services Corporation Act of 1974 (H. Rep. 93-247, 93rd Cong., 1st Sess. 11) is instructive regarding the intent of Congress concerning this provision. The section-by-section analysis explains the provision as follows:

"The Committee would like to assure that the legal services provided to eligible clients are of the highest quality. Although a recipient, therefore, should be funded to carry out an appropriate training program, the Committee expects that no grantee--under the guise of fulfilling program training functions--will advocate any political action including, but not limited to, boycott, demonstrations, strikes or picketing. Training programs should seek to fully inform attorneys and their clients about indigents' legal rights and how such rights can be implemented, but the training sessions should not be organized to advocate particular political actions. Moreover, while information is disseminated about public policies that affect poor people's lives, and while training programs should set forth relevant information

concerning alternative means that can be utilized to enforce poor people's rights, the training sessions should not be organized to advocate any particular political actions. The provision, setting forth the responsibilities of training programs, is not intended to prohibit attorneys, who are paid for by corporation funds, from providing legal advice to eligible clients and their organizations." [Emphasis added]

It is clear from the legislative history that grantees and contractors are restricted from using funds provided by the Corporation for training programs that advocate particular public policies or encourage political activities, but are allowed to provide information about public policies and how they may affect clients. During training programs for attorneys and other staff personnel, grantees and contractors, may legitimately disseminate information about such public policies that impact on poor people and discuss legal remedies that may be attempted on behalf of such clients. However, they are prohibited from advocating specific public policies or urging the use of political activities in connection with training programs. Grantees and contractors may neither directly conduct such training programs nor provide support to other organizations that are conducting such programs where such support involves the use of funds provided by the Corporation.

The January 1981 Denver Regional Project Directors Meeting was an official Corporation sponsored training function. Numerous grantee organizations within the boundaries of the multi-state Denver region, and some from without, sent representatives to the session and paid their salaries, travel and transportation expenses from funds provided by the Corporation. A meeting agenda and participants' list was published which we assume was provided to participants in advance (See Appendix II). The agenda characterized many of the presentations in such descriptive terms as to put participants on notice that the presentations would almost surely constitute violations of statutory restrictions on the use of corporate funds. For example, some of the presentations by grantees were listed as: "Mobilization and Coalition Building Case Studies - The California Prop. 9 and Oregon Experiences"; "Strategy Workshops in Network Building

Skills"; "Client and Community Organization Networking"; and "Mobilization and Coalition Building". During the session, speakers from the Corporation and grantee organizations advocated particular public policies and encouraged political activities. Some speakers advocated a policy of resistance to Reagan administration announced objectives to reduce the budget for, and scale down, all social benefit programs. For example, Mr. Houseman described the nature of the threat by stating:

"What is at stake is not solely the survival of the Legal Services program. What is at stake is the survival of many social benefits--entitlement programs that we struggled, since 1965, to make real for poor people. We have struggled since 1965 to bring into the belt federal, state and local benefits. What is at stake is a number of other kinds of programs like affirmative action, civil rights programs. That, in the end, is what is at stake in this battle. Those, in the end, are far more important than legal services. Legal services is a tool to get them. Both of those kinds of things, both of those problems--legal services, social benefits, entitlement programs, civil rights. Those are what are at stake in this battle."

Don Wharton stated that his group decided that it would be a kind of malpractice if his grantee organization failed to fight for all those programs of social benefits that people had worked so hard for over the past decade. Mr. Houseman's presentation was entitled "Strategies for the Future" and advocated a policy that the budget, structure and authority of the Legal Services Corporation be preserved at then current, or near then current, levels in the face of the threat that the Reagan Administration might adopt a policy to significantly reduce the budget and curtail the operations of the Corporation. Mr. Houseman analyzed specific proposals that might be adopted by the Reagan Administration and discussed some counter strategies. He pointed out that Reagan could appoint many new directors to LSC's Board who might be hostile to aggressive legal services and the staff attorney system. The counter strategy was to attempt to persuade moderate Reagan supporters such as

former Senator Ed Brooke to apply for appointment to the LSC Board. Mr. Houseman also anticipated opponents would attempt to impose additional restrictions on legislative representation and cases that involve suits against the Government, aliens, education and abortion. He anticipated major efforts to eliminate the National and State Support Center System and recovery of attorney's fees in suits against the Government. His counter to these threats was to establish a massive nationwide grass roots lobbying effort in order to influence Congress to vote against any legislation designed to implement any of these measures. Most of the speakers encouraged those in attendance to engage in political activities. These activities included building coalitions and networks with other organizations with shared interests, such as elderly groups, private attorneys, League of Women Voters chapters, labor unions, church groups and community organizations to establish a grass-roots lobbying campaign to lobby Congress in support of Legal Services and other social benefit and entitlement programs and in opposition to Reagan Administration proposals to curtail these programs. For example, Mr. Wharton told grantees that they were in a political campaign and urged them to build coalitions with groups such as unions, attorneys and minority groups to be effective. For another example, Jeanne Connolly urged members of the audience to engage in political activities by encouraging their friends to write letters to Members of Congress on behalf of the Legal Services Program. She also suggested that grantees designate a staff person to write letters for outside community organizations and agencies to send to Members of Congress requesting their support for the Program. We cite this as an example of political activities prohibited by the training prohibition in 42 U.S.C. § 2996f(b)(6). However, such activity may violate antilobbying provisions contained in 42 U.S.C. § 2996e(c), applicable to the Corporation and 42 U.S.C. § 2996f(a)(5) applicable to grantees, to the extent that specific legislation was pending before the Congress that they were attempting to influence. See for example, 60 Comp. Gen. 423, supra.

In sum, the above activity constitutes a violation of the training prohibition contained in 42 U.S.C. § 2996f(b)(6) because grantee officials at the Denver meeting were supporting and were conducting a training program for the

purpose of advocating particular public policies and were encouraging grantees to engage in political activities. Although Corporation officials did not technically violate this provision, they are not blameless for reasons set forth in the next section.

CORPORATION ENFORCEMENT RESPONSIBILITY

We should point out that 42 U.S.C. § 2996f(b)(6) is a restriction on the use of corporate funds for training activities by grantees and contractors. The Corporation has a responsibility under 42 U.S.C. § 2996e(b)(1)(A) to insure the compliance of recipients and their employees with the provisions of the Legal Services Corporation Act of 1974. That section reads as follows:

"(1)(A) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this subchapter and the rules, regulations, and guidelines promulgated pursuant to this subchapter, and to terminate, after a hearing in accordance with section 2996j of this title, financial support to a recipient which fails to comply."

This provision authorized the Corporation to enforce restrictions in the Act on fund recipients. Instead of carrying out this statutory enforcement authority, the Corporation assumed a contrary role of encouraging grantees to engage in training activities prohibited by 42 U.S.C. § 2996f(b)(6). The Corporation scheduled the Denver Regional Office training session, invited recipients to send representatives to be trained, established the agenda to present material on the LSC Survival Plan and arranged for high level corporate officials and grantee representatives from other regions to make presentations that in certain cases advocated activities that violated provisions of the Act. It should also be noted that even apart from section (1)(A), every granting agency has an affirmative duty to insure that its grantees do not expend grant funds for unallowable purposes.

The corporate officials and grantee representatives advocated a public policy of fighting threatened cuts in the

Legal Services and other Federal social benefit and entitlement programs and encouraged persons in attendance to engage in political activities including the building of networks and coalitions of organizations so as to effectively operate a nationwide grass-roots campaign to lobby Congress in support of policies advocated by the Corporation. Because the Corporation encouraged grantees to engage in activities prohibited by the Act it was in no position to discipline grantees for their violations by taking the sanction required in 42 U.S.C. § 2996e(b)(1)(A).

PROHIBITION AGAINST CREATING ORGANIZATIONS

The prohibition against the use of appropriated funds to create organizations and coalitions is contained in 42 U.S.C. § 2996f(b)(7) and reads as follows:

"No funds made available by the Corporation under this subchapter, either by grant or contract, may be used--"

"(7) To initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;"

As with the training prohibition discussed above, this provision prohibits grantees and contractors of the Corporation from using funds provided by the Corporation to organize any association, federation or similar entity. However, this provision is not to be interpreted in a manner that prohibits eligible clients from receiving legal assistance.

The legislative history of this provision provides information essential to an understanding of the intent behind the statutory language. Originally the Legal Services Corporation Act of 1974 contained a more detailed prohibition against establishing organizations. In the section-by-section analysis of the House Committee on Education and Labor Report to accompany H.R. 7824, the Legal Services Corporation Act of 1974 (H.Rep. 93-247, 93rd Cong., 1st Sess. 11) the original provision was set forth and

explained. The analysis stated that funds made available by the Corporation may not be used either by grantees or contractors:

"(5) to organize, to assist to organize, or to encourage to organize, or plan for, the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the provision of appropriate legal assistance in accordance with guidelines promulgated by the corporation.

The Committee believes that recipients and their employees should not be permitted to utilize program funds to organize any organization, association, coalition, alliance, federation, confederation, or similar entity. The Committee expects that pursuant to guidelines issued by the corporation, recipients shall provide appropriate legal assistance to eligible clients and organizations of eligible clients. Recipients and their employees are prohibited from organizing a group, but shall be permitted to prepare papers of incorporation and render other legal assistance as necessary."

In 1977, Congress decided to clarify the prohibition and amended the original provision in Public Law 95-222, 91 Stat. 1619, December 28, 1977, to read as it does today. The House Report No. 95-310, 95th Cong., 1st Sess. 14, that accompanied the Legal Services Corporation Act Amendments of 1977 (H.R. 6666) explains the clarifying amendment as follows:

"The vague and overly broad language in current law prohibiting the use of Corporation funds 'to assist' or 'to encourage' the organization of any group has caused legal services programs to refrain from providing the advice and legal assistance Congress intended should be available to clients who are engaged in organizing activities. The American Bar Association, among others,

has criticized the present law as unconstitutionally vague and violative of First Amendment rights. Section 7(b)(7) cures this vagueness. It prohibits the use of Corporation funds for direct organizing activities, but permits advice and legal assistance to clients who may themselves be engaged in such activities.

The committee recognizes a distinction between proper activities such as (1) assisting groups of poor people to organize by providing advice on matters of incorporation, by-laws, tax problems and other matters essential to the planning of an organization; (2) providing counsel to poor people regarding appropriate behavior for group members; and (3) encouraging poor people aggrieved by particular problems to consider organizing to foster joint solutions to common problems on the one hand, and those activities that are improper on the part of legal services programs in that they usurp the rightful role of poor people as potential members of such organizations, namely, actually initiating the formation of or organizing directly, an association, group, or organization." [Emphasis Added]

The legislative history makes it plain that grantees and contractors may not use funds provided by the Corporation to initiate the formation, or act as organizer, of any organization, network or coalition. However, providers of legal services may give advice to eligible clients and assist them with matters that would enable them to plan, establish and operate an organization that the clients believe is in their best interest. For example, this provision would not prohibit a fund recipient from providing legal advice necessary to establish a neighborhood day care center or a tenants' organization whenever such organizations are needed by clients for their own particular interests and direct benefit. On the other hand, recipients should not act as organizers of organizations on the basis of the recipients' perception that a particular organization would be beneficial to clients as a class or to the Legal Services Program. Also recipients should not initiate the formation of organizations where the initiating action is

with the recipient and not with the clients. For example, this provision would prohibit a Corporation funded provider of legal services from organizing a group to campaign for the reduction of Defense spending on the theory there would be more funds available for Federal programs that assist poor people.

Almost without exception, each of the first-day speakers at the Denver Regional Project Directors Meeting that we named above, devoted a large portion of time to a discussion of coalition building and networking, which is the establishment of informal organizational relationships on matters of mutual interests. Ms. Connally described the State Coordinator system that the Corporation and grantees had established in each state which served as a communications link between the Corporation headquarters and an informal state-wide organization of Legal Services Program supporters comprised of various organizations and individuals. Legal Services grantee organizations served as the core of State coalitions and provided financial and other support. Mr. Houseman outlined a plan to establish what he termed as an "outside Washington lobbying entity" that he referred to as "Action for Legal Rights". He stated that the organization was scheduled to be formally incorporated within the next week. He further indicated that plan called for LSC support centers (grantee fund recipients) to become affiliated with the organization, along with outside entities such as migrant farm workers groups.

Mr. Rader described a successful campaign that his support center funded with Corporation funds in California to defeat Proposition 9, a tax reduction ballot measure. He mentioned that his program had hired four field coordinators and built a coalition from organizations such as public employee unions and organizations interested in education, elderly groups and voluntary agency groups. Many of the 30 different Corporation funded Legal Services Programs in California committed staff time to the campaign and were involved in building the coalition of organizations involved in the campaign to defeat Proposition 9.

Don Wharton from the Oregon Legal Services Program explained that the Corporation fund recipients in his state were well on their way to building a state-wide coalition

dedicated to the survival of Legal Services. Oregon Legal Services Programs had assigned staff members to perform liaison functions with organizations comprising the coalition. The state-wide coordinator, a Legal Services Program deputy director, was responsible for coordinating the activities of these staff persons. Local programs were providing funds to pay the salary of a newly hired media and materials person whose efforts were devoted to the coalition.

These remarks by the above named speakers reveal that a large number of Legal Services recipients were expending funds provided by the Corporation on organizing entities such as coalitions and networks in connection with the Legal Services survival program. These organizing activities were initiated and conducted by fund recipients themselves rather than in the course of providing a direct legal service to clients. In our opinion, such activities by LSC fund recipients violated the prohibition contained in 42 U.S.C. § 2996f(b)(7) against the use of funds provided by the Corporation to form organizations. Here again, the Corporation avoided its responsibilities under 42 U.S.C. § 2996e(b)(1) to insure the compliance of recipients and their employees with the provision of the Legal Services Corporation Act of 1974 and instead encouraged grantees to engage in the prohibited activities.

PROHIBITION AGAINST ADVOCATING OR OPPOSING BALLOT MEASURES

The prohibition against the use of appropriated funds to advocate or oppose any ballot measures, initiatives or referendums is contained in 42 U.S.C. § 2996e(d)(4) and reads as follows:

"(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights."

This provision restricts the Corporation and its fund recipients from making use of corporate funds or any personnel or equipment belonging to any LSC program organization

to support, advocate, oppose, or urge the defeat of any ballot measures, initiatives, or referendums at the State, local or national levels of Government. On the other hand, a program attorney is free to provide advice and representation, as an attorney, to an eligible client with respect to such client's legal rights.

A review of the legislative history of this provision does not shed much light on what Congress intended beyond the plain meaning of the language of the section. The Conference Report of the Legal Services Corporation Act of 1974 (S.Rep. 93-845, 93rd Cong. 2d Sess. 22) makes the following comments concerning this provision:

"The House bill and the Senate amendment prohibited the Corporation and any recipient from making available corporate funds, program personnel, or equipment for use in advocating or opposing ballot measures, referendums, or initiatives. The Senate amendment contained an exception to this prohibition where such provision of legal advice and representation is necessary by an attorney, as an attorney, for any eligible client with respect to such client's legal rights and representation. The House bill contained no comparable provision. The conference agreement prohibits advocating or opposing such measures, but provides that an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal right."

While the prohibition element of the provision is entirely clear, it might be helpful to offer our interpretation of the scope of the exception. Under the exception, a program attorney is authorized to provide legal advice and representation, as an attorney, with respect to such client's legal rights. The words "as an attorney" are significant because this restriction limits the attorney's role to that of protecting the client's rights and not of serving as a campaign manager, public relations advisor or major contributor. Persons desiring to offer a ballot measure, need legal advice to know what legal rights they have under the law of the jurisdiction in which they are located. Accordingly, a program attorney is authorized to provide

eligible clients with advice concerning their legal rights to offer ballot measures. Such advice would normally contain information on the requirements of law that the client must satisfy. For example, there is a general requirement that ballot measures be circulated among residents or registered voters of the jurisdiction in the form of a petition to obtain a certain number of signatures, in order to have it placed on the ballot. Opponents of a measure frequently allege some defect(s) in the petition, such as irregularities with the qualifications of those signing the petition. Consequently, the matter may become the subject of litigation. A program attorney, as an attorney, may represent an eligible client, who is sponsoring or opposing a ballot measure where the client's legal rights to offer or oppose the petition are at stake.

On the other hand, we think that a program attorney would be precluded by the above prohibition from providing any assistance in the form of Corporate funds or program personnel and equipment to a client waging a campaign in support of, or in opposition to, a ballot measure that is already on the ballot and before the voters. In this situation, the client's rights to offer or oppose a measure are not at issue so as to require the representation of an attorney.

Prior to launching the campaign against Proposition 9, Mr. Rader drafted a legal memorandum construing 42 U.S.C. § 2996e(d)(4) as allowing program attorneys to engage in a ballot measure campaign so long as they are representing an eligible client. Mr. Rader argued that the ballot measure restriction should be construed in the same manner as the restriction on legislative advocacy contained in 42 U.S.C. § 2996f. Mr. Rader also argued that the provision requiring "representation as an attorney" in 42 U.S.C. § 2996e(d)(4) concerning ballot measures should be considered to be amended by implication, inasmuch as a similarly worded provision in 42 U.S.C. § 2996f(2)(5) was amended by Congress in 1977 to read "representation by an employee of a recipient". Therefore, according to Mr. Rader, legislative advocacy activities could be performed by non-attorney employees of recipients.

We are not persuaded by Mr. Rader's arguments. Section 42 U.S.C. § 2996e(d)(4) is a blanket prohibition on both the Corporation and recipients which is a much broader prohibition against ballot measures than is the one against legislative advocacy contained in 42 U.S.C. § 2996f(a)(5) which affects only activities of fund recipients and includes several exceptions. Also, to be effective, an amendment of a provision must be express. Amendments by implication, like repeals by implication, are not favored in the law, and generally will not be upheld by the Courts in doubtful cases. The Congress is generally not held to have changed a provision it did not have under consideration while enacting the amendment, unless the terms of the amendment are so inconsistent with the provisions of the prior law that they cannot stand together. See 1A Sutherland, Statutory Construction (4th ed. 139-140, citing cases).

In our opinion, based on Mr. Rader's description, the Corporation, the Western Center on Law and Poverty and certain other unidentified California Legal Services grantees, violated the provision of 42 U.S.C. § 2996e(d)(4) in providing funds and personnel support for the Proposition 9 Task Force that operated a large scale opposition campaign to the Proposition 9 ballot measure during the first half of calendar year 1980. Mr. Rader in his campaign against Proposition 9 expended funds made available by the Corporation. He obtained a "Special Needs" grant from the Corporation for the Proposition 9 Task Force in the amount of \$61,655 and also obtained staff commitments from approximately 30 California Legal Services Programs funded by the Corporation. The cost of these staff commitments is unknown and would be very difficult to compute, considering the lapsed time. However, we know that the campaign lasted approximately 3 months and that many staff persons at field offices throughout California devoted at least half their time to the campaign. With the grant, according to Mr. Rader, the Task Force hired 4 coordinators who had experience working with poor people and in political campaigns. Funds were also expended on clerical staff, travel, printing and postage associated with campaign activities. The Task Force assembled a coalition of organizations, trained their members on the issues involved in opposing Proposition 9, and in voter registration and in get-out-the-vote techniques. The Task Force activities described by Mr. Rader

were the precise sort of activities that are prohibited by the statute's injunction against using corporate funds to oppose a ballot measure that is already on the ballot and where client's legal rights are not at issue.

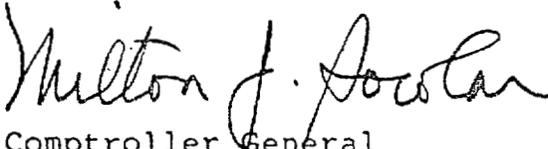
SUMMARY

In summary, we wish to point out that we have not made a thorough review of all the LSC documents provided us by your office concerning the LSC survival campaign. Therefore, we are unable to determine whether the January 1981 Denver Regional Project Directors Meeting is representative of LSC activities during the period in question. Indeed, we selected the material on this training session because it appeared to contain evidence indicating violations of the statutory prohibitions that you cited in your request by LSC fund recipients. After reviewing the training session material, we determined that certain LSC fund recipients had violated these statutory prohibitions, as has been described above.

Although appropriated funds were expended by these fund recipients contrary to law, we are of the opinion that the Government would be unable to recover the illegally expended sums from the recipients. In each instance the Corporation authorized and encouraged fund recipients to make the expenditures. By separate correspondence, we are recommending that the Corporation take appropriate action to amend its regulations governing the activities of fund recipients and Corporation officials in order to prohibit such expenditures in the future.

In accordance with your request, we are continuing our work on the overall investigation of the LSC survival campaign and members of our staff will contact your office from time to time to discuss this project.

Sincerely yours,

*for*   
Comptroller General  
of the United States

SUMMARIZATION OF PRESENTATIONS

The following is a summarization of presentations made by certain speakers at the January 12, 1981 LSC Denver Regional Project Directors meeting at Boulder, Colorado.

Dan Bradley, President of the Corporation was the first speaker and made some introductory remarks entitled "A Call to Action." He was followed by Jeanne Connolly, Assistant Director of the LSC Government Relations Office. She presented a status report on the Corporation's efforts to organize a grass roots lobbying campaign on behalf of the Legal Services Program. She pointed out that there was a pressing need to enhance the image of the Legal Services Program in the eyes of Congress. To accomplish this she established a minimum goal that every member of Congress should receive one positive letter each week about the Program. She stated that if each of the 100 people in the audience would urge 3 friends to write a letter to a member of their congressional delegation, 300 letters would be immediately generated. She suggested that the Legal Services Program representatives in attendance designate one of their staff persons to write sample lobbying letters on behalf of the program. Organizations such as the League of Women Voters, the National Association for the Advancement of Colored People, elderly organizations, community organizations, and other similar human services groups should be contacted and requested to send these letters in support of Legal Services to Members of Congress.

Ms. Connolly also explained that a State coordinator system had been established to coordinate the LSC lobbying activities at the state level. A coordinator in each state would serve as the communications contact and distribute materials received from her office. The State Coordinator would also identify and select individuals best suited to serve as contacts with the members of the state congressional delegation, the bar association, and clients group. Ms. Connolly ended her presentation with the following remarks.

Appendix 1

"We have sort of a goal, I guess it is. We're pretty narrow in our office. All we want are a majority of votes in the House and in the Senate. That's all we ever think about. And we see Members of Congress on a spectrum also. And the goal that we've set up, every single member of Congress, is to move them just one notch up on this spectrum. So if your particular member is an absolute enemy of Legal Services and has been up on the floor of the House railing and screaming about Legal Services, your job is to get that person to shut up and sit down, that's all. We're not expecting a positive vote for Legal Services. We only want you to move them one notch on the spectrum. If your member's over here and they are absolutely supportive of Legal Services, they always vote right and the word we get back from the field is 'Oh they're fine, don't worry about them, they are really with us.' That's not enough. We want that person up on the floor screaming their support of Legal Services. You've got to move everyone of those members one more notch on the spectrum. That's the goal for all of us. That's all I have to say."

Alan Houseman, Director of the Corporation's Research Institute, and the acknowledged architect of the survival plan was the next speaker who spoke on "Strategies For the Future."

He described the nature of the threat by stating that "what is at stake is not solely the survival of the Legal Services Programs. What is at stake is the survival of many social benefits--entitlement programs that we struggled, since 1965, to make real for poor people." He stated that the effort to save the Legal Services Program must be combined with efforts to save the social benefits, entitlements programs and the civil rights programs. He then discussed some probable measures that the new administration would take regarding the Legal Services Programs. These included such items as a more conservative Corporation Board, block grants that bypass the Corporation, increased state control and use of private attorneys, elimination of national and state support centers and restrictions on the kinds of issues the program could litigate.

## Appendix 1

Mr. Houseman then discussed how the Corporation planned to effectively counter these threats by organizing a coalition of groups to lobby on behalf of Legal Services and other benefit and entitlement programs. He described the plan as follows:

"What are we doing? First, we are trying to unite and join together. That is not going to be easy. We have far to go to do that, but we have made substantial progress in the last two months. What have we done to do that? First a coalition of organizations has formed. It includes NLADA, [National Legal Aid and Defenders Association] PAG, [Program Advisory Group] the National Client's Council, the Union of the Minority (unintelligible). That group is going to incorporate an outside Washington lobbying entity which I'll call Action for Legal Rights, ALR, for the purposes of the rest of this discussion although the name of this entity will not be ALR for reasons which I won't go into. They are going to incorporate this outside entity. The incorporation is going to happen next week. They have committed those organizations to moving and working together to put aside the petty, silly problems and differences they've had. There are two things that clearly in my view must happen to make this new ALR realistic and to broaden this coalition. And there is an agreement of those five (5) organizations and their representatives to at least consider one of the two things and to move on the other. The one there is an agreement to move on is to broaden the base of the ALR to include other organizations and interest groups within this community. Some of those organizations and interest groups are represented in this room such as support centers, migrant farm workers groups, the American Indian groups, etc. Secondly, and I think in the end equally and not more important, I think we must broaden the base of this group to go beyond legal services. The coalition members have agreed to at least seriously consider how to do that and I think we will move to do that. There are a variety of ways we can do it, formal and informal. We have talked about establishing a blue-ribbon committee of prestigious high-powered lawyers to be associated with this new

## Appendix 1

entity. That may happen, I think we also have to seriously broaden the constituency who labor in civil rights, elderly, to make the coalition and ALR, not look like a self-serving, narrow, weak, unfocused entity, but one that has broad-based political support. That is not going to be easy. In 1973 and 1974 as Mickey Bennett will talk about tomorrow, we had an ALR, which was essentially controlled by the Legal Services community, which gave the perception to the Hill and to the press of the broad-based entity. It is essential that we do the same thing today, and we're beginning to do that, we're working on it, and frankly I think we're going to pull it off. That is the first thing we're doing to try to begin to deal with these problems.

Secondly, we are expanding and strengthening the state coordinator network. Jeanne was talking about that. Third, maybe the most important, which is what most of these two meetings in the next two days are all about, we are seeking to diversify and strengthen the base of local and state programs. That is critical. It goes along with what I was talking about nationally, and in the end it goes along with what I mentioned earlier, which is the survival of social benefit entitlement programs and that is what we're talking about. In the long run, and you've heard this litany over and over again, both the short run and the long run a strong base of local political support is going to be essential to the survival of this program--and the place where that's going to happen, where it's going to occur, is on the local level. There is almost no way around that.

Fourth, we are strengthening our base of support nationally in a variety of different ways including the one I mentioned earlier and including reaching out to the Corporation to develop, strengthen, and get the groups and allies we have historically worked with committed to spending time on Legal Services."

## Appendix 1

In the afternoon session, Alan Rader, a staff attorney with the Western Center on Law and Poverty in Los Angeles, a California Legal Services State Support Center, described how his center waged a successful campaign in 1980 against Proposition 9, a ballot measure designed to reduce the state income tax by 50 percent. The purpose of his lecture was to present an example of organizing a state-wide coalition to accomplish a political objective that contained useful lessons for those involved in the survival campaign.

Mr. Rader recounted how Howard Jarvis had originally waged a successful campaign in 1978 in support of Proposition 13, a measure to reduce property taxes. When Proposition 9 was proposed in the beginning of 1980, Mr. Rader indicated that client groups with whom he had worked opposing Proposition 13, contacted Legal Services for assistance in defeating this measure. Mr. Rader explained that the Western Center concluded that it could support a campaign in opposition to Proposition 9 with funds, staff time and by providing access for the unions, the educational lobby, and other groups, that had a large stake in defeating Proposition 9, to the client communities that represented about 20 percent of the population of California and potentially could turn out a large "no" vote. A review of the grant files at the Corporation headquarters revealed that Mr. Rader, on behalf of the Proposition 9 Task Force, applied for a grant of special need funds in the amount of \$61,665.00 to hire four field coordinators and pay printing, mailing and travel costs associated with the objective. The Corporation approved the grant on an expedited basis. Mr. Rader described how the task force began work as follows:

"The first thing that we did after we decided to proceed, was to begin to work with the groups which were most clearly the ones who would be the backbone of a statewide public campaign in opposition to Proposition 9. And that is, the unions, most notably the public employee unions, and the education lobby in California. And primarily what we did with them, and I think the role we played, was to just help to move the causes along quickly, so that they got themselves organized and public early on in the process so that other people in the state before they had an opportunity to see that it was hopeless, to see that there were other people to organize the campaign, something that they could relate to."

## Appendix 1

Next, he explained that he obtained firm commitments from the 30 different Legal Services Programs with 150 different offices throughout California concerning the amount of staff time that would be exclusively devoted to the Task Force. The program staff began working with the client community providing information to low-income people about the Proposition, its effect, and their need to vote. The program staff also provided technical assistance to client groups on how to hold voter registration campaigns in their communities. They assisted welfare client groups in negotiating with local welfare offices to allow them to place members of their organizations in lobbies of the welfare offices so they could conduct voter registration drives. Legal Services Program staff persons met with as many community based organizations as feasible and provided speakers at their meetings when possible. Also, Legal Services Program staff persons, with the assistance of the Task Force coordinators, helped client groups obtain media coverage of their views. Program persons persuaded Talk Shows to talk about, and newspapers to write articles on, Proposition 9.

Mr. Rader explained the relation that he established with local groups as follows:

"The second level of approach was with groups outside our normal constituency. Special education groups, PTA's, homeowners groups, elderly groups, voluntary agency groups like the United Way as the clearest example, all sorts of groups which might have their interests affected by the result of Proposition 9, that is dependent in one way or the other, either through fire protection or through funding for special education programs, funded by the continued revenue for the state. What we did with those groups is several things. We tried to present them the issues with regard to the Proposition, we tried to identify how they might be affected, and we tried to involve them in a coalition with the groups that we were already representing. Show them how there was some community of interests, in the terms for instance with special education groups, what they are concerned about in terms of programs being funded, and what the concerns that we were representing were, and look for a way to bring those two groups together so that they could join together, for instance, in a voter registration effort at a local community college.

The coordinators that we hired I think were critical to keeping the effort together. We hired people who had experience in political campaigns, and also had experience working with poor peoples' organizations. And what they essentially did is spent their time on the road. They traveled from program to program and from client to client providing assistance to those people as they developed their local work plan. What they did is sit down with the program in a given part of the state and say let's make a list of what the organizations we deal with in the past are, let's figure out how we approach those organizations, let's make a list of what the other organizations in the area might be, figure out how we approach them."

Mr. Rader then began to apply the lessons he had learned from his successful campaign against Proposition 9 to the ongoing Legal Services Survival campaign. He pointed out that the coalitions and networks that he had in mind, are not formal organizations with officers, records with a fixed schedule of meeting dates. Instead, they are a series of relationships where representatives of organizations come together around a particular issue that is a shared interest. They develop as little structure as possible. First, they identify a shared goal. Second, they develop a narrow strategy to accomplish it. Third, they divide up responsibilities and tasks that must be accomplished. Finally each constituent group performs its assigned tasks.

He pointed out that coalition politics is a process of mutual back-scratching, based on individual relationships. If a representative of an organization has helped some one out with something in the past, the representative can call on that person to do something for him or her. That person can ask some one to write a letter or make a phone call on behalf of his or her interest. For example, a staff person may have worked with someone in the past on the United Way campaign or on a health care issue, and that person knows a major campaign contributor to a member of Congress. The staff person could call on that contact to urge him or her to request the contributor to urge the Congressman to support Legal Service.

Mr. Rader pointed out that his experience with Proposition 9 indicated that some useful relationships could be developed with unions. He believed that Legal Services

## Appendix 1

personnel should first concentrate their efforts on forming coalitions with public employee unions. These unions provide services to the client community. If there are cuts in benefit and entitlement programs, some of these union members will be fired. Hence, they have a community of interest with the clients in preserving these programs. Also many of these union members would have to go on welfare if they lost their jobs. Mr. Rader thought it should be possible to establish relationships with United Auto Workers (UAW) locals which represent a number of workers in Legal Aid Offices. Since local unions are generally affiliated with national unions, they are potential contacts with other large organizations that can be helpful to the survival effort.

Another lesson from Proposition 9 is that client groups can become largely self sufficient once they are well trained on the issues, know how to work in the political process and advocate for themselves, and once they can form alliances with other groups that have no involvement with the Legal Services Program. Mr. Rader also pointed out that he learned from Proposition 9 that it is important to provide support early, in order for the media to see that there is an opposition campaign. Otherwise the media may present the issue as a foregone conclusion, which will make it difficult to raise money or to get people involved in what appears to be a losing opposition campaign. Also with regard to the media, a reporter covering an issue will generally call the opposition if he knows one exists.

The next speaker was Don Wharton, with the Oregon Legal Services Corporation, a State Support Center. He described how the Oregon Legal Services Programs were organizing to counter the budget cuts in the Legal Services and other social benefit and entitlement programs. In order to accomplish this, the Oregon Legal Services Programs discovered they had to organize their own employees, their clients and everyone else who shared a common interest. Wharton outlined the plan to build coalitions as follows:

"We have to build coalitions with constituencies who share those interest. There are three kinds of those: those who are natural allies, minority groups, client groups, all those folks; those who are likely to be hurt by what's going on, who are not necessarily our allies, and I think that labor unions probably fall into that, and less shared concerns; and those who are particularly

influential, but might not otherwise share our concerns unless we bring it to their attention and make sure that they do understand that, and I would list, I suppose, churches amongst those kinds of folks, law schools, other kinds of institutions of that nature.

The base bottomline is that we are in a political campaign with our clients to preserve their interests and that is what we are going to go about doing. We've identified the constituencies as client communities themselves, the [client] council, the issue groups, the statewide coalitions that they have already in existence, because we have to use as many existing resources as we can identify. We identified attorneys as an important group, the various associations that they have. Women, public officials, minority groups, labor, churches, senior citizens groups, non-profit organizations like the ACLU, environmental groups, agencies like what Alan described, those particularly who provide services to those people and professional groups who have a stake in what is going on here. We listed those groups and said that those are the people that we have to work with, those are the people we have to make our pacts with to carry on this task. We set out by organizing, we took the resources of Oregon Legal Services, along with the other programs in Oregon, of which there are three others, Portland, Salem, and Eugene Programs. And mostly out of Oregon Legal Services because that is the largest program, we assigned one staff member to each one of those groups. That is a person who has responsibility either on a full or a half-time basis to take care of organizing the cooperation of the coalition with that group. And we also have a state-wide coordinator, who is a Deputy Director of the Oregon Legal Services. That person is responsible for coordinating those staff people, and also with coordinating with the Legal Services Corporation of the United States. We also of course work with our local offices and hired a full time media and materials person, that means each program had to kick in money to support that person. So we are doing exactly what Alan said do, you got to do, you got to commit staff and you got to commit money and you have to do it in a way

that in your best estimate is going to maximize the benefit of that resource. To give you an example of how one of those staff people organized their effort, I'll take Steve's responsibility because he is responsible for the attorneys. Also because he gave me a list of what he did. The first thing he did was he got lists. He asked everybody in Legal Services to give him a list of attorneys who are strong in their support of Legal Services, who are luke warm in their support of Legal Services, and who may be convinced to support Legal Services. But he now has a list of people that he has got to prioritize according to what he can expect from those individuals.

We are in the process of organizing a committee to retain legal aid. A committee in the State of Oregon who will have as its goal the retention of legal aid and on that letterhead of that committee whether its ever meets or not, we have recruited the names of fancy lawyers in Oregon who are willing to put their name on a letterhead like that. When we write letters on that letterhead and send it around, it makes a difference when people see who is on the letterhead.

We are going to go to the Board of Bar Governors with a resolution. That's a thing that has to be carefully orchestrated. You don't go just barging in with these resolutions. You have to make sure that every legal aid attorney and every past legal aid attorney, every prospective legal aid attorney in the state is at that bar convention meeting when that resolution comes up, and that they vote when that vote is taken."

The Denver Regional Project Directors meeting continued for three additional days with other speakers and a great many workshops on subjects such as "Network Building Skills and Mobilization and Coalition Building". We do not have recordings of the following days, but from remarks contained in the first day presentation, we assume that material similar to that described above was included on the agenda of the other days.



Appendix II

LEGAL SERVICES CORPORATION

Regional Office

1726 Champa Street, Suite 500, Denver, Colorado 80202 (303) 837-5981

Dan J. Bradley  
President

DENVER REGIONAL PROJECT DIRECTORS MEETING

HILTON HARVEST HOUSE  
Boulder, Colorado  
1345 28th Street  
(303) 443-3850  
January 12-15, 1981

Monday, January 12

9:30-10:30 Continental Breakfast (Sunshine Room)

10:30- 1:00 Plenary Session: Flagstaff Room

Introduction: David A. Gilbert, Regional Director  
LSC Denver Regional Office

A Call to Action: Dan J. Bradley, President  
Legal Services Corporation

Reauthorization,  
Appropriations,  
LSC Board of Directors: Jeanne Connelly, Assistant Director  
LSC Office of Government Relations

Strategies for the Future: Alan Houseman, Director  
LSC Research Institute

A Field View: Jonathan D. Asher, Executive Director  
Legal Aid Society of Metro Denver

Questions and  
Discussion: All Participants

1:00- 2:15 Lunch Canyon Room

2:30- 3:30 Plenary Session: Flagstaff Room

Mobilization and Coalition Building  
Case Studies - The California Prop. 9 and Oregon  
Experiences - Alan Rader, Western Center on Law  
and Poverty  
Don Wharton, Oregon Legal Services

3:30- 3:45 The State-Plan Process - John Arango

3:45- 5:30 State Meetings (Small Groups)

Preliminary State Meeting - Initial Assessment of Strengths and Weaknesses and Assignments to Tuesday Morning Workshops

- Indian Projects-Gold Hill Room
- Arizona-John Balentine's Room
- Colorado-Trail Ridge Room
- Utah (Meets with Colorado)-Trail Ridge Room
- New Mexico-Michael Dale's Room
- Oklahoma-Stan Foster's Room - # 311
- Texas-Flagstaff Room

6:00- 7:30 Reception - Hors D'oeuvres and Cash Bar

Guests of Honor: Cecelia Esquer, Ramona Shump, Richard Trudell, and Josephine Worthy, Members of LSC Board of Directors

Tuesday, January 13

8:00- 9:00 Continental Breakfast (~~Sunshine Room~~)

9:00-10:15 Plenary Session: Flagstaff Room

Some Historical Perspectives,

- Hulett Askew, Deputy Director, LSC Office of Field Services
- Mickey Bennett, Former Director, Action for Legal Rights
- Alan Houseman, Director, LSC Research Institute
- Art Lucero, Deputy Director, LSC Denver Regional Office
- Alan Radar, Western Center on Law and Poverty
- John Tull, Regional Counsel, LSC Denver Regional Office

Facilitator: Theron O'Connor, Director  
LSC Chicago Regional Office

10:30- 1:00 Strategy Workshops (Small Groups) (Same small meeting rooms as Monday afternoon)

Strategy Workshops in Network Building Skills  
(Choose one and ensure state and client, staff and program director representative in each.)

*Quiet Room  
Don't have Disco  
Next to Sales  
Office*

Client and Community Organization Networking  
Flagstaff Room

Facilitators: Lupe Sanchez, Chairperson  
National Clients Council Board of  
Directors

Bernard Veney, Executive Director  
National Clients Council

Working with the Media-Gold Hill Room

Facilitator: Jim Abbott  
Legal Services of North Carolina  
Raleigh, North Carolina

Private Bar Relations-Trail Ridge Room

Facilitators: Theron O'Connor, Director  
LSC Chicago Regional Office

Clinton Cross, Coordinator  
Texas Legal Services Center

Overall Government Relations Briefing-Century Room

Facilitators: Jeanne Connelly, Assistant Director  
LSC Office of Government Relations

Jane Gill, Legislative Advocacy Director  
Colorado Coalition of Legal Services  
Programs

1:00- 2:00 Lunch Disco Room

2:00- 4:00 State Meetings (Small Groups) (Same rooms as Monday  
afternoon)

(Same Groupings as Monday, but Including Arizona and New  
Mexico Indian project representatives in respective  
state meetings)

4:00- 5:30 Plenary Session: Flagstaff Room

State Plan Reports