

Michael D. McKay
Vice Chairman, Board of Directors
Legal Services Corporation

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Chairman Cohen, Congressman Franks, members of the Subcommittee, I am Michael McKay, Vice Chairman of the Board of Directors of the Legal Services Corporation, and it is my privilege to be with you today. Mr. Chairman, I thank you for holding this hearing and for your interest in LSC and the provision of civil legal assistance to low-income Americans. Mr. Chairman, as you and Mr. Franks know, the Legal Services Corporation is the largest funder of civil legal assistance in the country. The Corporation makes competitive grants to 137 independent 501 (c) 3 corporations for the provision of civil legal aid to clients who are at or below 125 percent of the federal poverty guideline.

I bring you greetings today from Chairman Frank Strickland and our entire bipartisan Board. Each Board member is eager to do the right thing by the people we serve, and we listen to and respect one another's viewpoints about how best to fulfill LSC's mission. Providing civil legal assistance to individual indigent clients has never been more important.

As you will note from the resume that I have provided to the Committee, I was honored to be the United States Attorney for the Western District of Washington under President George H. W. Bush, and currently have an active commercial and criminal practice of law as a partner with McKay Chadwell in Seattle. However, some of my most rewarding cases have been the least publicized. I had the opportunity to represent a low-income public housing tenant from the Middle East whose case I took through Volunteer Lawyer Services many years ago. She endured harassment, broken windows, and physical violence at the hands of her neighbors. When the police came to investigate, language barriers caused them to believe her attackers, and she was evicted and brought up on criminal charges. I took her case pro bono, the charges were ultimately dropped, and the tenant was moved into another housing-authority unit far from her attackers. Without legal aid and pro bono, women like her would be high and dry. An evicted person would be out in the street.

Mr. Chairman, I believe so strongly in the obligation of all attorneys to contribute to equal justice efforts that I continued to take cases pro bono while I was U.S. Attorney, and I have recruited members of my firm and my local bar to do the same virtually my entire professional career. Those of us who have fulfilled that obligation know just how rewarding it is, but we also know how great the need is in our society for legal aid. Government clearly has a role. Funding, leadership, and oversight are in part a federal obligation and a necessity if we are to address the serious ills in our society and ensure equal access to justice for all Americans. That is why I am honored to be a member of this Board and proud of the work that we have done to strengthen LSC.

The recently released report on the Justice Gap in America, which we will be speaking about today, makes clear that legal aid has never been more in need of resources both from government and private sources. Equally important, of course, is the proper use of the funds that the Congress has entrusted to our stewardship. We consider that stewardship to be a central mission of our Board and the Corporation, and before President Barnett speaks to you about the Justice Gap this morning, I would like to say a few words about what our Board and LSC have done to improve and ensure that vital responsibility.

Our Board, prompted by two Government Accountability Office (GAO) reports, has concentrated its efforts over the last two years to improve our governance practices, to bring our Board's governance practices into alignment with Sarbanes/Oxley requirements, to improve the Board's oversight of the Corporation's financial and compliance responsibilities, and to focus the Corporation's attention on improved internal cooperation and good management practices. In making these efforts, the Board has had the assistance of and complete cooperation from the Corporation's management. We have made great progress and I'd like to outline those results for you today.

Established a new code of conduct and ethics

LSC management researched codes of conduct for corporations and boards similar in size and structure to LSC, drafted a Code of Ethics and Conduct for directors, officers and employees of the Corporation and presented it to the Board early last year. The Board adopted the Code on March 24, 2008, and the Corporation has conducted training for all employees, officers, and directors. In addition, training in compliance with the Code is now an important part of new employee orientation.

Modernized Board governance

An Ad Hoc Committee of the Board researched corporate audit committee options and charters, recommended the establishment of a separate Audit Committee, and proposed a charter for the new Committee. The Board approved the new committee and its charter. The Audit Committee held its first meeting at

the Oklahoma City Board meeting in April 2008, at which time it adopted a work plan for the coming year. The Board has drafted and approved charters for all its standing committees. A charter for a newly constituted Governance and Performance Review Committee was adopted at the August 2008 meeting of the Board. At its first meeting, the committee affirmed the importance of establishing a comprehensive training and transition plan for the next Board, and agreed on a board member self-assessment tool for Board approval and implementation. We completed the Board self-assessment and an evaluation of the full Board at our annual Board meeting in January 2009. The Committee's newly approved charter includes an annual review cycle.

The Board has established Board training and transition as a priority for 2009. We want to do everything that we can to facilitate a fully oriented and functioning Board in the shortest possible interval after the President appoints and the Senate confirms the new Board's members. To ensure that our efforts to improve Board governance are sustained, future Boards need to know not only the rules and procedures that have been established but also the background and history of our actions and the benefits that the new policies and procedures provide in fulfilling the mission of LSC.

Strengthened financial accountability procedures

LSC management evaluated the use of financial standards for LSC's annual financial statements, and with the LSC Board of Directors' approval, decided to continue to use the Government Accounting Standards Board guidelines for LSC's financial reports. The Board took the steps necessary to receive the LSC annual audit report from LSC's independent public accountant in a timelier manner. Accordingly, we have been able to act on the previous year's report at the end of January for each of the last two fiscal years.

In addition, LSC has revised and updated written guidelines for the fiscal component of the Corporation's Office of Compliance and Enforcement (OCE)'s regulatory compliance reviews and established written guidance for following up on grantee interviews. When reviewing programs on-site, OCE is now conducting expanded financial reviews that are designed specifically to address issues raised by GAO. These include review of prohibited political activities, proper use of non-LSC funds, transfers of funds, program integrity, private attorney involvement, sub-grants, membership fees or dues, timekeeping, attorney fees, and internal controls associated with the programs' accounting practices.

An advisory was sent to all LSC-funded programs on March 20, 2008, reminding Executive Directors of the need for appropriate documentation of expenditures of LSC funds and of the regulations regarding unallowable costs. The advisory specifically stressed the prohibition of expenditures of LSC funds for alcohol and lobbying, of the need for the grantees to adopt written policies governing salary advances, and of the regulation governing derivative income.

I am also pleased to report that for the fifth consecutive year, LSC received an opinion from outside auditors that LSC's financial statements present fairly, in all material respects, the financial position of LSC.

Established a risk management program

LSC management has this year established a formal and rigorous risk management program at the Corporation. Management researched a variety of risk management programs and best practices, identified the risk environment for the corporation, and performed an office-by-office risk assessment process. The final Risk Management Plan for LSC includes a full listing of the risks to LSC's strategic objectives, a delineation of the strategies to be followed to mitigate those risks, a list of the offices responsible for each of those strategies, and the dates of annual review. The completed program was presented to the Board at its January 2009 meeting and unanimously approved. One of the key annual duties of our new Audit Committee will be to review processes for risk assessment and mitigation, and the status of ongoing implementation of the plan.

To mitigate the risk of an interruption in grant payments or support to our 137 grantees, LSC management developed and implemented an emergency continuity of operations plan (COOP) for the Corporation, including notification protocols and procedures for each individual LSC office. As a part of the readiness aspect of the plan, LSC has established a remote computer facility and is using it as a backup for its computer operations. A test of the COOP, including the telephone tree initiation of the plan, was performed last September. Both announced and unannounced testing will be conducted on a regular schedule.

In a related area, LSC has reviewed and expanded the current risk factors for selection of grantees for program visits. The Corporation is updating procedures included in the Office of Program Performance (OPP) and OCE manuals. OCE and OPP will each apply the risk factors-such as date of last LSC visit, issues identified by the OIG, any change in grantee leadership, and issues related to program size (large or small). Together they will discuss their conclusions and make decisions about which programs to visit for compliance and programmatic oversight.

In addition, LSC has updated procedures to ensure that they reflect our current practice of using information and results from oversight and audit activities and other risk criteria in planning internal control and compliance reviews.

Tightened turnaround times on reports and guidance to grantees

In fulfillment of a commitment to go beyond the GAO recommendations to make related improvements, LSC suspended routine on-site program visits in February and March 2008 to complete all outstanding reports to LSC programs. In

addition, LSC has set firm goals for report preparation following program visits, such that reports will be provided to the grantees within 90 days of on-site program visits (for the large, statewide programs with multiple offices, the goal is 120 days). These and other procedures all have been laid out in writing in manuals.

Improved coordination and communication between program, compliance, and Inspector General offices

LSC management developed and implemented policies and procedures for information sharing among the OIG, OCE, and OPP and coordination of OCE and OPP on-site visits. LSC worked with an Ad Hoc Committee of the Board to establish working groups and held many hours of joint staff meetings to work on the roles and responsibilities of the various oversight offices. New information sharing and coordination of site visits, where appropriate, among OCE, OPP, and the OIG, is now proceeding. Care is being taken to ensure the OIG's independence. New training of LSC's oversight staff has now been completed and quarterly staff meetings to continue coordination of work efforts are being conducted.

Continued emphasis on oversight

Oversight and emphasis on compliance with proper financial management practices and provisions of law and regulation will continue to be a priority of the Board this year. President Barnett issued an advisory letter to all grantees in December on the subject of compliance guidance, and indicated that this will be an annual alert on issues that have surfaced in the year's compliance reviews. The Board recently initiated an effort with LSC management to focus on the oversight responsibilities of the individual grantee boards. They are vital partners in ensuring that the programs provide high-quality civil legal services in compliance with all laws, regulations, and best governance practices.

Conclusion

Mr. Chairman and members of the Subcommittee, let me say again in closing what an honor it is to be here today. It has also been a privilege to work with my Board colleagues to support the mission of the Legal Services Corporation. I would be happy to answer any questions that you might have at the appropriate time.