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Legal Services Corp. Is Alive and Ailing

By DOUGLAS J. BESHAROV

Legal Services Corp., the independent entity created by the federal government to fund legal services for the poor, was a major battleground between liberals and conservatives during the Reagan years. A new battle is now brewing—this time not over whether to abolish the program, but over its direction. Only a few diehards fight on to defund the program.

George Bush will soon nominate a new LSC board, which, if confirmed, will shape the program for years to come. Appreciating the stakes, liberals and conservatives are lobbying the White House to get their candidates nominated.

The closest Ronald Reagan came to abolishing the program was in 1981, when Congress cut it to \$241 million from \$321 million. LSC supporters mobilized congressional aid to fend off more cuts, but inflation-adjusted funding is still about 23% below its pre-Reagan levels.

This appropriations freeze reflected a deeper political stalemate. The Reagan appointees to the LSC board, caught up in controversy almost from the start, were unable to take effective control of the program. At the same time, local programs—feeling threatened by the conservative tide in Washington—steadfastly denied that the program needed any changes.

A just-completed study I conducted for the American Enterprise Institute under a contract from the LSC, however, found a major decline in productivity and an apparent unresponsiveness to the legal needs of poor people. Since the program was created in the 1960s, it has grown into a sprawling bureaucracy with more than 300 local legal-services agencies employing almost 3,700 full-time lawyers and about 6,200 others. Each year, it serves about 1.4 million clients. It is, in short, subject to all the laws of inefficiency and inertia that plague other federal programs.

Since almost no one proposes unlimited funding for legal-services agencies, case priorities must be established and must respond to new circumstances. Unfortunately, LSC data indicate that between 1975 and 1987, the latest year available, field programs hardly changed their priorities—even in the face of major shifts in funding and as most poverty experts saw family problems playing an increasingly important role in the lives of the poor.

The poverty that mobilized action in the 1960s—caused largely by economic deprivation and racial discrimination—has been overshadowed by the problems of divorce and illegitimacy. Almost half of all female-headed families with children under 18 are below the poverty line; they are almost three times as likely to be poor as other families with children.

One would expect a program sensitive to client needs to be spending an increasing amount of its resources on the problems associated with family breakdown. Instead, the relative proportion spent by LSC programs on family matters dropped from 35% in 1975 to 30% in 1987.

Perhaps this isn't so surprising in light of the fact that it is the lawyers who are choosing where to spend their time and other resources. Most lawyers find family cases less interesting than such classic targets of the legal-services movement as discrimination and inadequate government benefits since they offer fewer opportunities for law reform. And they are often frustrating, especially when they require intense and long-term relationships with emotionally distressed clients.

But a greater focus on family issues could have a real impact on poverty. Consider child support. According to the Census Bureau, in 1985 (the latest year in which data are available) only 40% of poor women were granted child-support awards, compared with about 71% of nonpoor women. And even when child-support was awarded, only 42% of poor women received full payments, 24% received partial payments, and 34% received nothing at all.

Declining productivity is another problem. While some legal-services programs make efficient use of their funds, others operate the same way law offices did 20 years ago. As a result, the efficiency of local programs varies immensely. Data collected annually by LSC suggest that the decline in productivity between 1975 and 1987 could be as much as 20%.

Local programs may be expending a great deal of their resources to no substantial effect. The AEI study concludes that less than 25% of attorney workloads involve "extensive" assistance to clients, while the bulk of resources is expended in giving informal advice or in deciding against serving potential clients.

Moreover, the study estimates that "extensive" cases average about 2½ days of staff time. Given the relatively routine cases involved, it appears that many LSC attorneys lack the skills, experience, or supervision needed to handle cases expeditiously. Since staff turnover is high, many lawyers fresh out of school handle cases under the supervision of attorneys with only two or three years' experience. The turmoil of recent years has taken its toll on staff quality and morale, which, in turn, reduces productivity.

Since neither the corporation nor local programs collect adequate information about caseloads, these conclusions are based on admittedly sketchy data. Nevertheless, the only systematic data available

clearly indicate that the system is in disrepair. Lawyer-dominated management may have worked when the program was filled with idealistic lawyers, but conditions have changed. So should the program.

Here are two of many examples of the reforms that should be on the new Bush board's agenda:

- *Client Copayments.* In medical care and other areas, copayments are increasingly required of people who cannot afford to buy a good or service at its market price. Because the clients must incur some out-of-pocket costs, they are encouraged to set priorities among their needs. Thus, scarce resources are directed to the services that recipients consider most important. As in Medicaid, the system could exempt some emergencies, such as eviction or spouse abuse, from the copayment requirement, or it could exempt those of welfare altogether.

- *Periodic Competition for Grants.* Unlike other recipients of federal grants, local legal-services agencies are all but guaranteed refunding. Unfortunately, this removes an important incentive for greater efficiency and responsiveness. Last year, Congress recognized this when it mandated that the corporation "develop and implement a system for the competitive award of all grants and contracts including support centers, to take effect after September 30, 1989."

To make such reforms, the new board will have to regain the trust of Congress and the legal-services establishment that was lost during the Reagan years. At the same time, though, the board will have to challenge the present system of lawyer-dominated management.

This puts the issue in the president's lap. If Mr. Bush wants a legal-services program that better meets the needs of the poor, he needs to appoint a board willing to take on the vested interests that have grown up in the legal-services world.

Mr. Besharov is a resident scholar at the American Enterprise Institute and on the adjunct law faculties of Georgetown and American universities.