ATTACHMENT

ACCOUNTABILITY TO LSC: OUTCOME MEASURES, EVALUATIONS AND UNINTENDED CONSEQUENCES

BY

ALAN W. HOUSEMAN
CENTER FOR LAW AND SOCIAL POLICY

HISTORY OF LSC EFFORTS TO ENSURE QUALITY

The legal services programs, originally funded in the late 1960s and early 1970s, were evaluated by independent contractors hired by the Office of Economic Opportunity (OEO). Evaluation teams consisted of people with legal assistance experience who evaluated performance using check lists and guidelines that evolved over time.

Although section 1007(d) of the LSC Act requires the Corporation to conduct evaluations, including independent evaluations, LSC has never implemented an effective or systematic approach to evaluating LSC funded programs for quality of services and effectiveness of program activities. Indeed, for long periods during its history, LSC conducted very few evaluations.

Moreover, when evaluations were undertaken by LSC or its predecessors, they were generally "process" evaluations and did not look at outcomes. They presumed that if certain processes were in place – such as case reviews, good hiring practices, opening and closing memos and the like – and if program staff and management implemented those processes effectively, the program would be delivering a quality product.

The only LSC study that explicitly looked at outcomes was the Delivery System Study (DSS) which included "impact" of program activities as one of four criteria that were evaluated through a peer review system. Of course, "process" evaluations do tell reviewers if these important processes are in place and planned actions have been carried out, but do not tell reviewers the results of those processes and activities.

After the formation of the Legal Services Corporation in 1975, evaluation visits were conducted by LSC regional office staff, utilizing teams of peer reviewers who had experience in the delivery of legal services for the poor. However, there was never a single set of guidelines or agreed-upon standards to serve as a framework for these evaluations. These traditional evaluation approaches relied almost exclusively on the assessment of input, process, and output factors and relatively subjective appraisals of program quality, rather than the measurement of results achieved (outcomes).

The Corporation began to develop more objective measurement approaches in the course of the Delivery Systems Study (DSS) that began in 1976. Using an entirely new evaluation and measurement format, the DSS examined the performance of different models for providing legal services (staff attorney, pro bono, judicare, and contracts with private attorneys), looking at four performance areas: quality, impact, client satisfaction and cost. In the ground-breaking areas of quality and impact, the DSS relied almost entirely on a peer review system, albeit a much more structured and elaborate peer review system than that employed as part of previous LSC and OEO evaluation processes. The DSS did begin to look at outcomes for the first time, especially in its measure of program impact. Nevertheless, once the DSS Report was issued in 1980, LSC did nothing to follow up on the results or to use the evaluation tools developed in the study to measure the performance of its other grantees.

Between 1981 and 1992, the Corporation did nothing to systematically evaluate recipients to determine whether they were providing economic and effective legal services of high quality. Instead, LSC conducted a campaign of intensive monitoring visits which focused primarily on compliance with LSC regulations and policies, although these monitoring visits frequently did include a review of the effectiveness of program fiscal systems and management.

At the beginning of the1980s, while LSC was focused on monitoring for compliance, the legal services community began work on a long-term process to develop standards for providers of legal services to the poor. This process culminated in 1986 in the adoption by the American Bar Association's House of Delegates of a set of written standards, *Standards for Providers of Civil Legal Services to the Poor.* These were aspirational standards for legal services providers and focused on processes that should be in place in programs to assure quality. They did not address expected outcomes for clients and they were not intended as a framework for specific performance measurement or program evaluation. They included neither a measurement process nor specific prescriptions for assessing levels of performance. Even so, some programs and some state funders have adapted these *Standards* as part of their efforts to evaluate the performance of staff or individual offices and units within the program.

In 1992, the Advisory Committee for LSC's Comparative Demonstration Project began to develop a performance assessment approach for use in evaluating the programs participating in the demonstration project. The Comparative Demonstration Project was set up to compare the performance of LSC grantees. The Advisory Committee developed a set of Performance Criteria that have since evolved into the LSC Performance Measures that are now used to evaluate grant applications to LSC. These criteria were originally developed to provide a framework for peer reviewers to use in their inquiries. There were four major performance areas: (1) effectiveness in identifying and targeting resources on the most pressing needs of the low-income community; (2) effectiveness in engaging and serving the client community; (3) effectiveness of legal representation and other activities intended to benefit the low-income population in its service area; and (4) effectiveness of administration and governance. Each performance area set forth criteria to be considered in assessing the program's

performance in that area. Indicators and possible areas of inquiry were also included for each criterion to further guide the peer reviews in assessing program effectiveness.

These Performance Criteria were used in the first round of evaluations that were part of the Comparative Demonstration Project. LSC, with the assistance of consultant John Tull, designed a Peer Review Site Manual and conducted the first round of reviews of voluntary participants in the Comparative Demonstration Project in 1993. A peer review team consisting of individuals who had extensive experience in providing legal assistance and in working with persons in poverty, evaluated programs which volunteered for the demonstration project according to the performance criteria.

In 1994, after John became Director of the LSC Office of Program Evaluation, Analysis and Review, LSC developed a peer review process which was built upon the Performance Criteria. However, during the summer and fall of 1994, key members of the State, Justice, Commerce Appropriations Subcommittee in the House of Representatives signaled their strong view that the focus of LSC oversight should be on compliance with the LSC Act and regulations and not on quality and effectiveness, the issues that the peer review process was designed to address.[i] As a result, the peer review process that LSC had developed was abandoned and efforts to measure quality and effectiveness fall largely by the wayside.

Since the imposition of the competition requirements in1996, LSC has implemented a much more rigorous set of criteria to review grant applications and to help determine which of two or more competing grantees should be awarded the grant for a particular service area. These criteria are based on the ABA *Standards for Providers of Civil Legal Services to the Poor* and the LSC Performance Criteria. LSC staff members have also evaluated some grantees using the LSC Performance Measures. Generally, these evaluation visits have been conducted when more than one program is competing for a grant or after a service area is reconfigured and a new grantee is serving the area They have not been part of a systematic system for evaluating all LSC grantees.

Finally, it is relevant to point out that LSC collects information on cases and matters that it grantees undertake. The LSC Case Reporting System (CSR) was first instituted in 1980 and was designed to collect data on cases closed by LSC recipients. The system remained virtually unchanged until 1993 when LSC issued a revised CSR Handbook that made some slight revisions to the system. Until 1998, LSC made no systematic effort to verify the accuracy of the CSR data that programs had submitted. Beginning in 1998, in response to complaints about alleged over-reporting of cases, LSC instituted efforts to ensure that CSR numbers were accurate and to eliminate from CSR reports any cases that were not fully documented. In 2001, LSC developed and implemented a Matters Reporting System (MSR) to obtain information about non-case services such as community legal education, pro se assistance, outreach, mediation and ADR and other activities not captured by the CSR. [ii]

[i] Note that this Congressional response was during the time that the Democrats controlled the Congress and prior to the 1994 elections when the Republicans took over control of Congress.
[ii] See ***Status Report: The LSC Matters Reporting System***, LSC, August 8, 2002.