



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

LEGAL AID SOCIETY OF ORANGE COUNTY, INC.
March 1-5, 2010
Follow-up Review

Recipient No. 805310

I. EXECUTIVE SUMMARY

Finding 1: LASOC adopted a policy distinguishing legal advice and CSR cases from legal information and matters, as required by the prior Final Report. However, the March 2010 review found some similarity of certain services that are treated as a case in one unit, and an “other service” in a different unit. As such, the related corrective action necessary in implementing a clear line between what constitutes “legal advice” and what constitutes an “other service”, as mandated by the required corrective action from the prior Final Report, and CSR Handbook (2008 Ed.), § 2.3 Footnote 11 has some continued work.

Finding 2: There are some pending questions raised regarding the SCAP contract language and terms.

Finding 3: LASOC was required to conduct training on several topics as part of the corrective action in the last OCE report. The March 2010 review found that LASOC has conducted sufficient staff training pursuant to required corrective action. However, some additional training and oversight of PAI subcontractors is still needed.

Finding 4: Two (2) targeted corrective actions involving oversight of PAI subcontractors were implemented.

Finding 5: LASOC took full corrective action regarding proper payment authorization involving certain private attorney contracts.

Finding 6: LASOC PAI contracts that relate to part-time private attorney assistance for oversight of the program’s hotline were properly designated and attributed as PAI.

Finding 7: Oversight and accountability by LASOC of the PLC pro bono effort was improved since the prior visit. However, targeted corrective action is necessary regarding open PLC cases to ensure that noted dormancy issues are fully resolved. As a result of dormant cases, LASOC is not in full compliance with 45 CFR § 1614.3(d)(3) that requires oversight and follow-up of PAI cases.

Finding 8: A new LASOC PAI contract with Justice in Education (JIE) is handling detailed education related cases. Some underreporting of JIE cases needs to be corrected. Also, direct involvement of private attorneys on more of the cases handled is necessary to ensure that all JIE work can be designated as PAI.

Finding 9: There are a few PAI contract attorney cases. These cases are properly designated as PAI and directly managed by the Director of Litigation.

Finding 10: Two (2) recent LSC legal opinions require that LASOC implement a few new changes regarding proper classification and cost allocation for certain PAI activities.

Finding 11: The review evidenced a need for further corrective action regarding the financial procedures used to identify and account properly for costs related to the PAI effort.

Finding 12: Sampled CSR-designated cases evidenced that LASOC's automated case management system (ACMS) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Finding 13: A comprehensive review of the LASOC intake system was not conducted as part of the FUR. However, sampled CSR-designated cases indicated that, overall, LASOC's intake system clearly supports applicant screening and related compliance efforts.

Finding 14: Sampled CSR-designated cases evidenced that LASOC maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, and applicable LSC instructions for clients whose income exceed 125% of the Federal Poverty Guidelines (FPG). However, one minor documentation change for certain over-income case files is needed. Finally, LASOC has taken effective corrective action to ensure that it only reports LSC-eligible senior cases in the LSC CSR.

Finding 15: Sampled CSR-designated cases evidenced that LASOC maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), and CSR Handbook (2008 Ed.), § 5.4.

Finding 16: Sampled CSR-designated cases complied with the screening and documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens) for staff cases designated for CSR reporting. However, until sufficient clarity is developed between the exact types of legal information services that can be done by the LRC and the exact types of services that are legal advice, there is the possibility of non-compliance with Part 1626 for any LRC service that might or does include legal advice. Finally, one PAI subcontractor failed to timely implement the new citizenship attestation format, with the result that some cases reported to LSC failed to have the correct attestation format.

Finding 17: Sampled CSR-designated cases evidenced compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 18: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 19: Sampled CSR-designated cases evidenced that LASOC provides legal services to program clients within the program priorities as required by 45 CFR § 1620.1 (Priorities in use of resources) and CSR Handbook (2008 Ed.), § 2.1(b).

Finding 20: Sampled CSR-designated cases contained documentation of the services provided, as set forth in the CSR Handbook (2008 Ed.), § 5.6. However, due to the open questions regarding whether certain services are in fact "legal advice" or "legal

information” some of the reported cases might not be a legal service but rather the provision of “legal information”.

Finding 21: Sampled CSR-designated cases evidenced that LASOC’s application of the CSR case closure categories were substantially accurate with Chapters VIII and IX, CSR Handbook (2008 Ed.). However, there were several instances in which the closing code “B” (Limited Service) was used in which the level of service clearly reached “L” (Extended Service).

Finding 22: Sampled CSR-designated staff cases evidenced compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 regarding the closing of cases in a timely manner. However, there were some significant dormancy issues evidenced regarding certain pro bono PAI cases.

Finding 23: Sampled CSR-designated cases evidenced compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 in that LASOC is not reporting duplicate cases to LSC. However, some limited underreporting of cases was noted.

Finding 24: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 25: LASOC is in general compliance with the requirements of 45 CFR Part 1635.

Finding 26: Sampled CSR-designated staff and PAI cases, and review of certain payment arrangements done through the program’s LRS, evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys’ fees) and 45 CFR Part 1609 (Fee-generating cases).

Finding 27: Sampled CSR-designated cases reviewed and review of other program materials evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 28: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Finding 29: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 30: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 31: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 32: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 33: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 34: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 35: Sampled CSR-designated cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

II. BACKGROUND OF REVIEW

General Background

On March 1-5, 2010, the Office of Compliance and Enforcement (OCE) conducted a Follow-up Review (FUR) at the Legal Aid Society of Orange County (LASOC). LASOC is one of 11 LSC recipients in California. The program, headquartered in Santa Ana, CA, has four (4) traditional service field offices located in Santa Ana, Anaheim, Compton, and Norwalk. In addition, LASOC has several other self-help related services, as discussed further below. In November 2005, an LSC OCE review team conducted a standard Case Service Report/Case Management System (CSR/CMS) review. The Final Report from that review, provided to the program in February 2008, identified several items needing corrective action. The purpose of the March 2010 FUR was to assess the program's success in implementing all necessary corrective action. In addition, as a new LSC CSR Handbook was issued effective January 1, 2008, the implementation of this new handbook was also assessed.

Items reviewed as part of the March 2010 FUR included corrective action related to: Private Attorney Involvement (PAI) components; case tracking; fiscal timekeeping improvements, and the differentiation of legal *advice* CSR "cases" from legal *information* "other services". All four LASOC offices were visited during the March 2010 review, as well as onsite visits conducted to the two non-profit entities with whom LASOC has entered into contractual relationships in furtherance of its PAI requirement, Public Law Center (PLC) and Justice in Education (JIE). In addition, fiscal and timekeeping records were reviewed, including an overview of the program's new "Matrix" time reporting system.

A sample of 281 cases was reviewed using LSC's Data Collection Instrument (DCI). Case review was used to assess targeted corrective action related to case handling/reporting, as well as to generally assess implementation of the 2008 CSR Handbook. Almost all sampled cases had been selected randomly, and include staff and PAI cases (from each of the different PAI efforts), as well as open and closed cases, and included 2008, 2009 and 2010 cases. In addition some specialized case lists were run in coordination with program management so as to review certain targeted follow-up issues.¹

Numerous interviews with senior management and staff in the Santa Ana offices and throughout the program were conducted. In addition, particular focus was given to the services provided by the LASOC Legal Resolution Center (LRC), located in its Santa Ana office, as this center must be limited to the provision of legal information only, as customers of the center are not screened for any type of eligibility. Review of the LRC included direct observation (by several team members) of services provided by LRC, interview of several LRC staff, and assessment of the related contractual or other agreements, including relevant state law for LRC work. Further, several discussions with LASOC management were held during the review week regarding observations and issues noted regarding the review.

¹ For example, a list of open cases that did not have any time charges for the past six months was requested and reviewed as one method to determine the program's effectiveness at timely case closing and dormancy issues. This is discussed further, *infra*.

It is noted that at all times during the review process LASOC, through its management, fully cooperated with the LSC visit, thus allowing the visit to be conducted in an efficient and effective manner. This cooperation included the provision of detailed advance materials, provision of additional documents and access to staff during the review week, and continued assistance and availability of LASOC staff after the onsite review.

LASOC was provided a Draft Report (“DR”) and given an opportunity to provide comments. At its request, the program was given an extension of time in which to provide its comments. The program’s comments were received on November 1, 2010 and have been incorporated into this Final Report (“FR”). In addition, the program’s comments are attached to this FR as an Exhibit. In its comments, LASOC agreed to take necessary actions suggested or required. LSC notes that one of these actions, the training of certain staff to ensure a clear delineation between “legal services” and “legal information” will be an ongoing effort and will involve LSC staff engagement with the materials created by LASOC. OCE will work with the program to help ensure that any remaining issues regarding the clarity of legal services versus legal information are reasonably resolved.²

Delivery Structure of LASOC Legal Information/Self-Help Services

LASOC houses within its Santa Ana facility the Legal Resolution Center (LRC). The LRC consists of the court funded Small Claims Advisory Program (SCAP), a Self-Help Center, and the Legal Referral Service. Individuals who receive services through the LRC are not screened for eligibility and the services provided are counted only as “other services”/matters.

The LRC is housed in a new LASOC building in Santa Ana. This building also holds the administrative offices, a regular service office, the LASOC hotline, and other activities. The LRC provides a wider than normal range of services to its customers through self-help, small claims assistance, and a Lawyers Referral Service (LRS) which is unique among LSC recipients, and provides an organized and highly useful collection of services for the Santa Ana community. However, due to the ongoing and daily provision of legal information by the LRC, there needs to be very careful handling and delineation of the different services provided by LASOC in light of various LSC requirements and restrictions, as discussed in this report. As noted in this report, the March 2010 review determined that there remains some lack of clear delineation between services provided for unscreened persons (considered to be “matters” / “other services”) versus services provided to screened eligible clients (reported as cases in the annual CSR). However, as discussed in this report, LASOC management committed to continued work/corrective action in ensuring that distinctions are clearly established and maintained between what can be done for an unscreened member of the public versus what must be reserved for only screened applicants deemed eligible under relevant rules affecting recipients of LSC funding. In the sections immediately following, brief descriptions of the organized “self help” or “legal information” services provided by LASOC are provided.

² In the cover letter to this FR, LSC will be requesting to see the first draft of any new manual or other materials originally created by LASOC to address the needed training within forty-five (45) days.

*Small Claims Advisory Program (SCAP)*³

Section 116.260 of California's Code of Civil Procedure (CCP) requires that in each county, individual assistance be made available to advise small claims litigants and potential litigants without charge. The program known as SCAP was designed by the state to provide information and counseling to litigants and potential litigants concerning all aspects of the Small Claims Court process.⁴ LASOC has a contract with the Superior Court of California, County of Orange County to assist litigants with case preparation, collecting judgments, appealing a judgment, the process of preparing a countersuit, and more⁵. LASOC serves litigants directly or by phone at the Santa Ana LRC. SCAP has a website at www.ocsmallclaims.com that provides litigants or possible litigants with the step by step instructions on filing a suit in small claims court; the necessary forms for small claims court; and the ability to e-file all necessary documents directly to the court. The website also provides separate fact sheets to assist litigants or possible litigants for the most common disputes that arise in small claims court. The staff at LASOC's SCAP is comprised of legal assistants, paralegals, and law students who are supervised by a Supervising Attorney. All small claims advisors must receive sufficient training to ensure competence in the different areas associated with the small claims court system.⁶

According to the LASOC Executive Director (ED), the Orange County Clerk of the Court initially had the contract for the SCAP project. However, in a subsequent year, LASOC applied for and received the contract for this work.⁷ LASOC has been granted the contract every year since its initial contract.

Observation and interviews revealed that staff is *generally* providing pro se assistance to individuals who are seeking direct services.⁸ Individuals are assisted in completing court forms,

³ No LSC funding is utilized in support of any LRC function. Funding for the SCAP is a renewable agreement between the Superior Court of Orange County and LASOC to provide specified services on a flat fee basis for \$220,000 annually, to be billed and reported on a monthly basis. The non-small claims self-help services provided by LRC have no direct funding source, but was stated by LASOC management as being covered by the Small Claims funding and monies earned from the Lawyers Referral Service. The same LRC staff members perform the different services performed by the LRC. As a result, the exact costs attributed to any one of the three efforts are not simple to distinguish. However, the same restrictions apply to all LRC work – that is no legal advice or legal services may be provided. The LRS is basically self-funded through dues and fee sharing agreements with participating attorneys, discussed further, *infra*.

⁴ See Section 116.940 of California's Code of Civil Procedure.

⁵ The contract for the Small Claims Advisory Program is issued on a yearly basis. The terms of the contract in effect at the time of the March 2010 review were from July 1, 2009 – June 30, 2010 for the amount of \$220,000.00.

⁶ See Rule 3.2120 of the California Rules of the Court.

⁷ It was explained by LASOC management that at the conclusion of the first contract with the Orange County Clerk of the Court, that the Court was not fulfilling their obligation pursuant to the contract or under the requirements of California's Code of Civil Procedure and that therefore the contract was not renewed. LASOC bid for and was then awarded the contract by the Chief Executive Officer (CEO) of the Administrative Office of the Courts (AOC) of Orange County. According to the ED, the Orange County Clerk of the Court then appealed that decision to the AOC of the State of California whose CEO is the Chief Justice of the State. The Chief Justice then decided that the CEO of the AOC of Orange County was well within his authority to grant LASOC the SCAP contract.

⁸ As will be further discussed in this report, some of the services observed in the LRC were similar to the type of assistance provided by LASOC and reported as cases in its staff hotline and elsewhere in its LSC-funded components. As such, there are questions raised as to whether there exists within LASOC sufficient clarity between what is legal advice (and therefore can only be provided to screened and accepted eligible clients) and what is solely "legal information" and can therefore be provided to any member of the public.

analyzing facts, and interpreting regulations. The Supervising Attorney, law students, paralegals or other professional volunteers provide the services. The Supervising Attorney will assist individuals with complex issues. Assistance can be on the phone or in-person. The assistance on the phone is primarily provided by paralegals, law students or volunteers and the duration of the calls are usually no longer than a few minutes. The caller is not asked to provide any eligibility information to the SCAP staff and nothing is memorialized about the call.

In-person customers for LASOC's SCAP are required to complete a sign-in sheet. The form states that LRC does not provide legal advice, there is no confidentiality extended between staff and individuals seeking services, and that the office provides services to all sides of a case.⁹ The only information captured on the sign-in sheet is the opposing party's name, the dollar amount that is being sued for, and the reason for the suit. The form does not include financial or citizenship screening. No other information is documented regarding the services provided by the SCAP to any customer of the center. According to the SCAP staff interviewed, individuals seeking services through the LRC/SCAP are not considered clients and are not provided any legal advice. Any services provided are counted as matters.

Lawyer Referral Service (LRS)

The LRC also houses the LRS. LASOC operates a LRS with the full permission of local bar, and provided to the team a certificate evidencing this fact. LASOC's LRS operates similarly to many bar lawyer referral services throughout the United States. LASOC refers individuals to attorneys who have paid an annual \$100 fee to be placed on an attorney panel. Individuals requiring legal assistance are referred to the LRS by three methods: 1) a referral from LASOC's hotline due to an applicant being ineligible for LASOC services or having an issue that cannot be handled by the program; 2) a referral by a branch office who is unable to assist a client after the case has been transferred by the hotline; and 3) in the event a person using the LRC requires extended representation.

Each panel member agrees to pay LRS 15% of total fees billed to the client if the attorney receives \$0 to \$3000 from the case or 20% of the total of the fees billed to the client if the attorney receives \$3001 or above from the case. This arrangement is discussed further, *infra*.

Fiscal review during the March 2010 visit confirmed that LASOC, correctly, allocates no part of the LRS costs towards its PAI requirement.

Self-Help Center – Santa Ana - (WeConnect Neighborhood Center)

LASOC's LRC also houses a Self-Help Center in its Santa Ana office.¹⁰ The Self-Help Center operates under the Guidelines for the Operation of Self-Help Centers in California Trial Courts and does not have a direct source of specialized funding, but rather is funded by other LRC

⁹ There is no such notification provided to individuals who *call* SCAP. As many of the services conducted under the SCAP contract are by phone, the notice provided by the paper forms is not done for all SCAP customers.

¹⁰ According to the SCAP Supervising Attorney, most state funded Self-Help Centers are located at the county courthouse.

funding.¹¹ The Self-Help Center also has computer kiosks that allow individuals to access I-CAN!. I-CAN! is a free online application that enables people to create court forms by asking simple questions and putting answers on the forms in the correct place. Additionally, I-CAN! informs individuals how to file forms, and provides instruction of the court process. I-CAN! can be accessed from any computer that has Internet access. However, LRC staff frequently assists in person customers with I-CAN! via LRC public computers available in the LRC Santa Ana office.¹²

The Self-Help Center utilizes the same intake sheet as the SCAP. The form states that LRC does not provide legal advice, there is no confidentiality extended between staff and individuals seeking services, and that the office provides services to all sides of a case. The only information captured is a person's name and address. Individuals are not screened for income, assets, or citizenship. All services for LSC reporting purposes are counted as matters.

Since the Santa Anna Self-Help Center is part of LRC, that also does the SCAP and the LRS, staff can be used interchangeably for the different LRC programs. LRC staff stated that individuals seeking self-help services at LRC are not considered "clients" and are not provided any legal advice. The Supervising Attorney stated that the LRC provides very limited service to individuals using the Self-Help Center. Often, individuals are directed to the I-CAN! kiosks and assistance provided is then limited to the use of that automated system. Other Self-Help Center customers may be only provided a referral to a participating LRS attorney.

Self-Help Center – Compton – at Los Angeles Trial Court

Self-Help Centers were developed by the state to facilitate timely and cost-effective processing of cases involving self-represented litigants and improve the delivery of justice to the public.¹³ In 2008, the Administrative Office of the Courts, in collaboration with judges, court executive officers, attorneys, and other parties with a demonstrated interest in services to self-represented litigants developed Guidelines for the Operation of Self-Help Centers in California Trial Court. The Compton Self-Help Center was formed under a subcontract between Neighborhood Legal Services of Los Angeles and LASOC. The terms of the contract state that staff of the Self-Help Center shall not provide legal advice or provide legal representation to individuals using the Center's services.

A licensed attorney must oversee all services provided by the Self-Help Center. The guidelines require that Self-Help Centers provide notice to individuals that the services that are provided do not produce an attorney-client relationship. The LASOC Compton Self-Help Center utilizes an intake form that requires individuals to initial and sign a statement of understanding which informs the individual that the Center: is there to help the individuals help themselves; will

¹¹ These guidelines make clear that services provided must be limited to legal information and that legal advice should not be provided. These rules are based in Rule 10.960 of the California Rules of Court are intended to ensure the impartiality of services provided.

¹² Comments to the DR noted that due to funding cuts that presently the LRC is no longer able to help customers with I-CAN! legal forms and is not conducting any workshops. Comments also stated that in the past customers of the LRC assisted with family law issues were only helped to navigate through the I-CAN! legal forms and were not given any legal advice nor given the extensive standardized texts given to clients calling the hotline.

¹³ See Rule 10.960 of California Rules of the Court.

provide legal information; will not be providing legal advice; is available to assist both parties; is not representing them; and that any meeting between Self-Help Center staff and the individual is not private.

The basic core services offered at the Self-Help Center are assistance with pleadings; document review; explanation of court documents; assistance with understanding service requirements and methods; preparation for hearings; completion of orders after hearings and judgments; and drafting stipulations. Also, computer kiosks are available that allow individuals to access I-CAN!. Self-Help staff frequently assists persons using the I-CAN! system.

The Compton Self-Help Center is similar to other such Centers run by LSC recipients in Southern California, and is strictly limited to legal information only as set forth in strict operating guidelines for those specifically funded projects.¹⁴ The Compton Self-Help Center does not present any of the compliance issues discussed in this report, and is not of concern to LSC at this time.

¹⁴ Observations of services provided and interviews of Compton office staff involved with this self-help clinic indicated that all the information provided as part of this self-help clinic is purely instructional and general in nature and that Compton Self-Help Center staff members provide no services that approach the provision of legal advice. The Compton Self-Help Center also provides workshops in which participants are provided instructions on the procedures of filing for different types of legal issue. Observations and interviews evidenced that staff would typically explain the legal process for an individual's case; ensure that individuals had the correct forms; and would also check the forms to ensure that they have been correctly completed.

III. FINDINGS

Finding 1: LASOC adopted a policy distinguishing legal advice and CSR cases from legal information and matters, as required by the prior Final Report. However, the March 2010 review found some similarity of certain services that are treated as a case in one unit, and an “other service” in a different unit. As such, the related corrective action necessary in implementing a clear line between what constitutes “legal advice” and what constitutes an “other service”, as mandated by the required corrective action from the prior Final Report, and CSR Handbook (2008 Ed.), § 2.3 Footnote 11 has some continued work.

Corrective Action (CA)-1, from the prior Final Report, required, in part, LASOC to:

“...Institute a written program policy that staff may not provide or report the same level of legal help as a case for an eligible client and as an “other service” for an ineligible client.”

A new policy was adopted as required, and there were program efforts to discuss, train, and implement the policy. Despite these good faith efforts, there remain concerns regarding similar types of limited legal services that are considered to be cases in some divisions, and to be legal information in other divisions. There were several examples observed in which the services provided by LRC (through SCAP and Self-Help Center) appeared very close to indistinguishable from the same type of services and information considered to be legal advice in LASOC’s other offices.

Various team members witnessed the activities and statements of LRC staff during the week as part of the review. As the LRC was stated as never providing legal advice, open access was allowed to the statements made, and actions taken. Several observations by team members evidenced that, in some instances, the LRC staff had appeared to have applied law to facts, or had taken an action for a customer, or made other statements that rendered the interaction identical to services provided by other LASOC units and considered by those units to be cases. Clear delineation between “cases” and “other services” is essential. Legal advice as defined by the LSC CSR Handbook definition, relevant ABA guidelines,¹⁵ and the state of California must only be provided to fully screened and eligible clients due to LASOC’s status as an LSC recipient.¹⁶ Discussion of cases and non-cases, and examples of work observed during the review that supports the above follows.

¹⁵ ABA *Standards for the Provision of Civil Legal Aid*, August 2006.

¹⁶ Of critical importance, if a certain level of service is determined to be “legal advice” and a reportable CSR case, then several other compliance concerns arise should the same services be provided to an unscreened individual, as discussed in several sections of this report.

Legal Resolutions Center (LRC)

Sample services observed as provided by LRC included a wide range of actions from quick, simple telephone calls with limited information to extensive time periods spent assisting an individual customer. Examples follow with targeted analysis.

- In one set of services observed, LRC/SCAP staff were observed assisting callers who called the SCAP hotline. In one instance a caller wanted to know the statute of limitation (SOL) for a contract case. The SCAP staff asked the caller whether the contract was a written or oral contract. The caller indicated that the agreement was “scribbled” on a piece of paper. The SCAP staff provided her with the SOL for an oral and written contract and informed her that the judge would make the determination as to which SOL applied.
 - *Analysis: This service is a close call regarding whether it might be considered a case by the LASOC hotline. Clearly if the LRC staff had told the customer which SOL applied to their “paper” contract, then it would be legal advice. As the person only referred that question to the judge, this service is more similar to “legal information” only.*
- In other services witnessed, an LRC staff member stated to a customer, during an observed telephone conversation, “You should sue.” Or similarly, “You should sue (name of specific person stated) instead”.
 - *Analysis: Either statement clearly appears to encompass an application of the law to the customer’s stated facts as it includes a clear recommendation of what legal action to take, or which party to sue. If such statements were to be made in the LASOC hotline it is highly probable that the service would be considered to be a CSR eligible legal-advice case.*
 - *It should also be noted that there is a handbook developed by the Judicial Council of California that is meant as a reference as to how to provide legal information to an individual without giving legal advice. For instance, this handbook clearly states that court staff can explain and answer questions about how the court works and give general information about court rules, procedures, and practices. Importantly, this handbook states that one should refrain from telling a litigant whether a case should be brought to court. The handbook also stated that one should not give an opinion about the probable outcome, and should not tell a litigant what words to use in court papers or what to say in court. [Emphasis added.]*
- An extensive assistance was witnessed that lasted about 45 minutes. The LRC staff member assisted a customer with understanding how to sue a dentist in small claims court. The services included identification of the proper relevant legal codes and an explanation of different legal options available to the customer as well as assistance in helping the customer complete required paperwork.¹⁷

¹⁷ On March 3, 2010, a LRC staff member was observed assisting a customer with her small claims case. The staff member spent approximately 45 minutes assisting the customer who was seeking assistance in suing a dentist. The individual apparently had been before a Judge previously for this issue. The LRC staff member reviewed the

- *Analysis: The level of service observed, if it had been completed by a non-LRC LASOC casehandler, would most likely have been closed as a CSR case.*
- Another statement heard from telephone assistance in the LRC was “I recommend that you do the following...”. While this statement alone does not amount to legal advice, if the questioned posed by the caller had to do with legal topics (which would be usual for the LRC as people are calling about legal problems), then such a statement could amount to the application of facts to a particular legal course of action.
 - *Analysis: The application of law to specific client facts is considered to be legal advice and reportable as a CSR. LASOC management will need to analyze common word usage and common statements made by LRC staff, including the words discussed above – and especially those statements that may indicate that LRC staff members are providing a recommendation, choice, or other direction to the LRC customers. These types of statements will then need to be analyzed in context and decisions made as to whether they should be discontinued from use in the LRC.*

Cases -- CSR Services by Other LASOC Units

- A large number of advice and counsel cases are produced annually by the LASOC hotline located in Santa Ana. During the March 2010 review, there were instances observed and cases reviewed from LASOC’s hotline in which clear legal advice, i.e. the application of a client’s facts to specific law, was noted. However, there were other instances noted in which the non-attorney hotline worker, under the supervision of an attorney, only provided pre-written generalized information that explained the legal process and procedures on varying legal issues. It is these second types of hotline cases that did not appear to be different from witnessed services provided by the LRC. For example, in Norwalk Closed 2008 Case No. 08E-437932, the LASOC hotline provided the client with generalized advice regarding the legal process and procedures of a divorce by the LASOC hotline. According to the notes in the file no additional advice or information was given to the client. Similarly, in Hotline Closed 2008 Case No. 03E-442298, the client was provided with generalized information regarding the process and procedures for child support. According to the notes in the file no additional advice or information was provided to the client.¹⁸

documents that the customer had received from the court and then explained in detail the contents, including an explanation of the legal options available to her. The staff member also printed and interpreted the relevant legal codes referenced in the paperwork she received from the court. Additionally, the staff member informed the customer to contact the Dental Board of California as it has subpoena power to obtain dental records from the dentist and the ability to investigate her complaint. The LRC staff member then assisted the customer as she completed the proper forms for filing a case in small claims court.

¹⁸ Whereas some hotline cases may clearly evidence that specialized legal advice for that client was provided, others may not. Discussions with LASOC staff evidenced that there are approximately 40 sets of standardized “advice” texts available to the hotline intake workers. The hotline Supervising Attorney is supposed to select any of the standardized texts to use, but in addition should also provide other specialized advice to the client. It is the second part of this process – the provision of specialized advice to the client that needs to be emphasized and recorded by the hotline so that any similar provision of standardized or generalized information by the LRC can be distinguished as information only. However, in the case where available texts for the hotline already contain legal advice, such as a recommendation to take a certain action, the additional specialized advice would be less critical for evidencing that

- *Analysis: Such cases are similar to the generalized legal information provided in the LRC to unscreened individuals. A clear distinction between what will constitute legal advice versus legal information needs to be clearly established and then appropriate training for LASOC staff conducted.*
- Other case services outside of the hotline may also be similar or seemingly identical to the hotline services that provide generalized advice. For example, a CSR could be reported when the client was provided only generalized advice about the procedures involved with a divorce.
 - *Analysis: In contrast, when the LRC staff provides similar “boilerplate” information, LASOC considers the LRC to be involved in only the provision of legal information. The use of boilerplate information will need assessment by LSC and LASOC to ensure that for all CSR cases there is also clear legal advice present, and conversely, that all boilerplate used by the LRC strictly involves only legal information with no possibility of legal advice.*
- Staff involved with the LASOC Pro Se Divorce Clinic stated that when assisting clients (uncontested divorces with no children) that the usual service provided is to explain the court rules and procedures and to then assist with the pro se preparation of pleadings. The clients primarily complete the pleadings. LASOC will then close these cases under CSR code “L”, extended services. Some of these cases (involving assistance with preparation of pro se pleadings in family court) were identified in the case review sample.¹⁹
 - *Analysis: The assistance with the completion of forms is an area for which the LSC review observed potential overlap and similarities of service between LRC and non-LRC LASOC units. This area must receive short-term clarity as to exactly what level of such assistance would amount to the provision of legal services to be reported to LSC, and what level is appropriately considered to be the provision of legal information only. The guidance needed in this area will include consultation with the LSC Office of Information Management regarding the precise allowances made by LSC as to what can be a CSR case.*
- In particular, the LASOC bankruptcy clinics present situations that need clarification. The standard process is that bankruptcy cases are first identified by the hotline and provided some “A” level advice. These clients are then assigned to one of the LASOC bankruptcy clinics in Compton, Anaheim or Norwalk. During this 3.5 hour clinic, bankruptcy procedure is explained by a bankruptcy attorney and attendees are provided with paperwork to complete. Next clients must attend mandatory credit counseling class. After completion of the class and having prepared their documents through the clinic, clients are given a one-on-one appointment with a PAI attorney as which time the private

there was legal advice. In reverse, no text or standard statements used by the LRC should contain any such legal advice and must be generalized legal information only. It should be noted that the use of standardized texts for hotline services raises no concerns, and in fact can be a very effective practice for the provision of efficient services to advice clients.

¹⁹ For examples, see Santa Ana Closed 2008 Case Nos. 07E399199 and 07E394148 and Compton Closed 2008 Case No. 04E240641.

attorney reviews the paperwork. If clients only attend the clinic, LASOC has reported the case as a “B” – Brief Service. For those clients who met with a private attorney, LASOC has reported the case as an “L”.

- *The “B” level cases in the above description are likely not able to be counted as a “B”. If all LASOC is doing is providing general information in a group setting, it should not be reported that legal advice happened at this level. The cases that had advice from the hotline should be closed as a hotline “A” case. In the absence of a one-on-one meeting with an attorney during the first bankruptcy clinic, it seems clear that the clinic is only the provision of legal information. As part of the necessary continued efforts, LASOC must assess all clinics that could amount to a CSR reported case, to ensure that either individualized legal advice is provided, or these cease being reported as cases from the clinic.*

Overall Discussion

Based on the observations and interviews conducted regarding LRC efforts, and applying the state’s general definition of “legal advice”, LASOC appears to be providing legal advice to some LRC customers when such work is compared to the services provided in a CSR case.

Comparing the types of statements made, or actions done by LRC staff (versus staff in other LASOC units in which clients are screened and cases reported) indicated that in some instances the actions taken, or statements made are so similar to or are identical to LSC reported “cases”. The same language and/or actions cannot be both a screened case in one unit and an unscreened matter for another unit.

The effects of a lack of clarity discussed in this section could be very broad. If the assistance in the SCAP and the Self-Help Center is considered “legal information”, then all similar services in the hotline and elsewhere in LASOC for screened clients that provide the same level of “legal information” must be excluded and not reported to LSC as cases.²⁰ In the alternative, if a certain level of assistance is deemed “legal advice”, then all individuals receiving services must be screened for eligibility, even if served by the LRC/SCAP. When certain statements and actions do amount to the provision of legal assistance, they can no longer be done for any LRC customer who has not been screened, and in particular for whom proper compliance with 45 CFR Part 1626 has been established.²¹ LASOC may not provide or report the same level of

²⁰ Depending on how “legal advice” is clarified, there are a potentially significant number of “A” - Advice and Counsel and “B” - Brief Service cases that could be affected, and that could be determined to have been mistakenly reported as CSR cases. There could also be some “L” - Extended Service cases reported that equaled work provided by the LRC. In the alternative, if certain services are legal advice, then there is the provision of legal advice through LRC without any screening of clients. Such assistance may violate the eligibility requirements of 45 CFR Part 1611, but *will consistently violate* the screening and documentation requirements of 45 CFR Part 1626, discussed further, *infra*.

²¹ With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. See 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. See 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant’s oral response to the recipient’s inquiry regarding citizenship/alien eligibility. See CSR Handbook (2001 Ed.), ¶ 5.5 and

assistance as a case for an eligible client and as a matter for an ineligible client, a requirement set forth in the corrective action in the prior Final Report, which is also stated at CSR Handbook (2008Ed.), § 2.3 Footnote 11.

The area of legal information versus legal advice is a very current and active topic in the US legal system, and it is noted that sometimes the distinctions between services that amount to legal advice and those that do not are not precisely clear. Despite this, clear delineations and standards need to be established that provide the necessary separation between cases and “other services” at LASOC.²² This is especially critical as even though attorneys are prohibited from appearance in small claims court in California, attorneys are still able to provide legal advice on small claims matters.²³

Importantly, as discussed further, *infra*, LASOC management is committed to the actions necessary to ensure that standards are clarified as necessary, and then fully implemented. LASOC management clearly wishes to provide relevant and helpful information through its LRC, but does not wish to provide legal services through those efforts. On the other hand, LSC must ensure that congressional restrictions are enforced, and must also ensure accurate CSR reporting. Additional clarification is necessary so as to clearly define what level of services may be reported as a CSR and what level of services should not be reported as a CSR, but then may be freely provided to unscreened customers of the LRC. Until the proper clarity is established regarding the differences between legal advice and legal information, CA-1 from the prior Final Report has not yet been fully implemented.

In a subsequent telephone conversation with LASOC management after the on-site review, some very general and brief observations were shared regarding the continued tensions between legal advice and legal information noted as a result of the review. In this conversation, LASOC management indicated a strong willingness to engage in additional efforts that will work to ensure that a clear delineation exists between “legal advice” and “legal information” standards.²⁴

CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

²² As discussed, *infra*, this effort needs to include a newly created written “training” document that covers common types of services that are close or similar between the LRC and the regular full-service divisions at LASOC. Also, LSC participation in reviewing this document is essential, as this clarification process must properly apply LSC standards regarding what amounts to the provision of legal advice under the CSR Handbook.

²³ During the on-site review, the LASOC ED stated the possibility that due to the Small Claims Court (under \$7500) system in California not allowing attorneys to represent clients in court, that related work by attorneys on small claims court matters outside of the court would not necessarily involve the provision of legal advice or legal services. OCE obtained input from the LSC OLA on this matter. Based on OLA’s input, LSC has concluded that it is in fact possible for attorneys in California to provide legal advice and legal services to clients on small claims court cases outside of the court, and that attorneys are only prohibited from direct representation as counsel of record. Further, there was no reference to support the program’s statement found in Chapter 5.5 of the California Code of Civil Procedure. As such, it remains critical that the LASOC SCAP services be *strictly limited* to the provision of legal information only. Otherwise the various non-compliance effects noted throughout this report will continue to occur.

²⁴ In support of this it is noted that the LRC Directing Attorney and the Director of Litigation attended a three-day conference in April 2010 sponsored by the Administrative Office of the Courts to train staff at the Self Help Centers in the California courts. One of the sessions provided training on the difference between legal advice and legal

The focused objective of the additional work will be to clearly delineate the exact level of work/statements/actions that are appropriate and permissible for LRC (as a non-case) versus the work/statements/actions that are appropriately only considered legal advice and therefore the applicant must be screened before being provided that service.²⁵

This will require creation of specialized training materials for LASOC staff. The materials will need to provide sufficient detail so that staff know exactly how to ensure that legal advice has, or has not, been provided.²⁶ The preparation of the detailed training document will also require LSC review, as the difference between what is considered legal advice can easily affect other LSC funded programs, particularly in California. LSC must also ensure consistent and fair application of such standards and of the cases reported in the CSR.²⁷ With this starting document,²⁸ all services that have similarities can then be given clear defining differences as to what makes them either a case or the provision of legal information only. After the creation of such a guide, then training of the involved LASOC staff can be based on this document and can help lead to clarity through the clear delineation of common services familiar to all relevant staff.

Comments to the DR explained that ongoing training of the relevant LASOC staff has been, and is being conducted to address the above. Further, LASOC discussed its plans to create a focused and in depth training to ensure that the advice given in CSR cases complies with the definition of legal assistance in the CSR and that the legal information given to a LRC customer complies with the definition of legal information. Further, LASOC listed several relevant authorities for its guidance and training including LSC's CSR Handbook, the ABA Standards for the Provision

information. LASOC forwarded the training materials obtained regarding legal advice and legal information to LSC.

²⁵ The line between legal advice and legal information can be very close and delicate. Telling someone the actual number of days left for him or her to appeal (i.e. doing the math calculation) would for LSC CSR purposes be legal advice. In contrast, just telling someone the overall number of days in an appeal period without any specific math calculation would be legal information only.

²⁶ All instances of services that seem similar between the LRC and the LSC-funded program components will need to be discussed and two examples provided in a written training document – one that makes it legal advice and one that makes it legal information. An effective plan for moving forward is for LASOC to immediately begin the creation of a detailed training document to be used for staff training that provides numerous common actual examples of the types of very simple cases handled at the “A” advice and counsel, or “B” limited service level and likewise actual examples of all main types of common services provided by the LRC. Also as discussed in this report, some legal services closed as an “L” will also need to be included and distinguished. The various legal and non-legal services identified must then be compared and precise guidelines established for staff regarding what keeps that service at the “information” level only versus what amounts to legal advice for that service. This is particularly critical where there are parallels or similarities in the services rendered. Also helpful to this effort, this report discusses several examples of services that will need to be assessed and clearly distinguished (advice versus information) and that should be included in the training document.

²⁷ LSC OLA advice was sought regarding whether there were any differences between the general LSC definitions of what constitutes legal advice, versus the definitions of legal advice applicable in California. OLA advised that there were no differences in the two standards. As such, the development of the training guide by LASOC, with input from LSC (so that LSC can ensure that the guide meets LSC criteria), should be a relatively straightforward process.

²⁸ This training document, after being initially created and necessary staff training conducted, can then be easily converted by LASOC into a manual that is updated to add new examples needed.

of Civil Legal Aid and the Resource Guide for Court Clerks prepared by the Judicial Council of California, Administrative Office of the Courts.²⁹

There is confidence in the abilities of LASOC management to take the necessary additional corrective action discussed above. There was noted dedication on behalf of the various managers and directors who interacted with the team. Further, past actions regarding LASOC's training of staff regarding compliance and attendance by LASOC representatives at necessary outside trainings, indicate a commitment to correct practices. In particular, and because the future effort will heavily involve the LRC, it is noted that the LRC Directing Attorney is an engaged supervisor of the Center, and also evidenced a clear commitment to oversight and training of his staff, as needed.

Finding 2: There are some pending questions raised regarding the SCAP contract language and terms.

A main LRC activity is the provision of assistance to residents of Orange County under the SCAP project funded through an agreement with the California Administrative Office of the Courts, Superior Court of California, County of Orange. LASOC conducts no eligibility screening for any customer assisted through this project and the contract does not require any such screening.

45 CFR § 1620.2(b) defines a "matter" as an action that contributes to the overall delivery of program services but does not involve direct legal advice to or legal representation of one or more specific clients.

The SCAP agreement appendix requires professional liability insurance of \$1,000,000.00 aggregate each year to cover any "errors or omissions committed or alleged to have been committed which arise out of rendering or failure to render Services provided under the terms of this Agreement." It is unclear from this language whether this insurance is of the type necessary to cover attorney malpractice, thereby indicating or acknowledging that legal advice might be provided under the contract.³⁰

Paragraph 3.2-K of the agreement also requires LASOC to waive any right of subrogation that it may have against the Administrative Office of the Courts in regard to any claims made in regard to services rendered under the agreement. It is unclear from this language whether the agreement may be indicating or acknowledging that legal advice may be provided under the contract or whether there is any expectation as to whether an attorney/client relationship may arise in services provided by the SCAP.

²⁹ Additional detail regarding LASOC efforts and response to this area can be found in their comments which are attached as an Exhibit to this FR.

³⁰ During the March 2010 review, the topic of insurance for the LRC was discussed but not in the context of the language of this agreement. The discussion involved specialty insurance obtained by LASOC regarding its proprietary computer system I-CAN! Precise information on the exact type(s) of insurance maintained by LASOC for LRC activities needs to be obtained by LSC. With its comments to this Draft Report, LASOC is directed to provide the necessary detail regarding this insurance, and to explain whether the insurance covers attorney malpractice.

The agreement, in a section captioned “Agreement for Small Claims Advisory Services,” sets out the minimum requirements for providing advisory services under the contract as follows:

- (1) Individual Personal Advisory Services, in person or by telephone, and by any other means reasonably calculated to provide timely and appropriate assistance. The topics covered by individual personal advisory services shall include, but not be limited to, preparation of small claims court filings, procedures, including procedures related to the conduct of the hearing, and information on the collection of small claims court judgments.
- (2) Recorded telephone messages may be used to supplement the individual advisory services, but shall not be the sole means of providing advice available in the county.

In the above quoted sections, the Agreement for Small Claims Services under the Administrative Office of the Courts for the State of California requires LASOC to provide personal advice and services to clients. Whether this includes or allows the provision of personal services that could amount to legal services or advice is unclear. Related to this, the agreement also contains LASOC’s proposals for delivery of services. LASOC proposes that it provide “individual procedural assistance and information” and states that “in addition to services provided by telephone, the Small Claims Advisory Program at LASOC will also provide individual assistance on an in person basis at LASOC’s facility during office hours, either walk-in or by appointment.” These statements do not state that individual *legal* assistance or *legal* advice will be provided. However, further assessment regarding the contract sections is necessary to ensure that discharging of any required duties for individualized “legal information” under the contract will not be similar or equal to, services considered as “cases” with legal advice for LSC. Ultimately, LSC must ensure that the receipt of the SCAP contract does not present a situation for LASOC in which compliance with that grant would result in any potential non-compliance with its LSC grant. Under the SCAP agreement LASOC is expected to serve unscreened persons, and if those services are allowed to, or can, include legal advice or legal services under California law, and appropriate LSC and ABA guidelines, then receipt of that contract could conflict with LASOC’s LSC grant.

Due to the need for certainty, the SCAP agreement generally, as well as certain of its terms specifically, were provided to the LSC Office of Legal Affairs (“OLA”) for general legal advice regarding the scope of this agreement. OLA determined that the surrounding agreements and law regarding the small claims effort do not definitively make clear whether LASOC is prohibited from the provision of legal advice under the contract. It is noted that the agreement is intended to implement section 116.260 of the CCP, which mandates: “In each county, individual assistance shall be made available to *advise* small claims litigants and potential litigants without charge....” The language of the statute uses the terms “advise” and “individual personal advisory services,” and may appear to allow for the provision of more than just legal information. In addition, CCP section 116.940(b) sets forth the minimum requirements for providing advisory services, which include “individual personal advisory services”, in person or by telephone, and by any other means reasonably calculated to provide timely and appropriate assistance. Under the law, the topics covered by individual personal advisory services shall include, but not be limited to, preparation of small claims court filings, procedures, including procedures related to

the conduct of the hearing, and information on the collection of small claims court judgments.

Thus, it could be argued that the statute appears to contemplate that services may exceed the mere provision of legal information, and potentially could include the provision of particularized or applied legal advice. A definitive resolution of this will be necessary.³¹

Further, the terms of the actual SCAP agreement signed by LASOC are sufficiently ambiguous as to whether the agreement is intended to be more limited in scope than would be permitted under that statute. It could be argued that the agreement appears to designate a more limited scope of services than those authorized by the statute. The agreement between LASOC and the court states:

Services Provided and Service Delivery Models

The Contractor (LASOC) will provide the following services:

Individual *procedural assistance and information*. The topics covered shall include, but not be limited to, preparation of small claims court filings, small claims court procedures, including procedures related to the conduct of the hearing, and information on the collection of small claims court judgments.” [Emphasis added.]

The language of the agreement is more ambiguous than the statute and it could be seen to narrow the scope of some services to only the provision of legal information. However, it also permits the “preparation of small claims court filings,” which may require application of legal knowledge to a litigant’s particular set of facts, and is therefore permitting legal advice. In addition, the list of topics mentioned in the scope of services to be provided is not exhaustive and may include other items of relevance to the litigant’s case. Given the language of the statute and the ambiguity of the agreement, LSC is uncertain whether assistance to small claims litigants is limited to legal information or whether the provision of legal advice is included.³²

Finding 3: LASOC was required to conduct training on several topics as part of the corrective action in the last OCE report. The March 2010 review found that LASOC has conducted sufficient staff training pursuant to required corrective action. However, some additional training and oversight of PAI subcontractors is still needed.

Staff Training

CA-1, from the prior Final Report, required LASOC to:

³¹ LSC anticipates that this will be addressed and resolved through the program’s training materials that will provide the necessary clarity as to the exact types of services, and the limits of “legal information” versus “legal advice”, that can be provided by different service models the program employs.

³² It is noted that program management consistently represented that the only services that LASOC is to provide under the SCAP would be at the level of legal information and general, non-advice level legal information.

Provide training to all staff involved in case handling, compliance and case closure on Chapter II, Key Definitions, of the 2008 CSR Handbook.

CA-2, from the prior Final Report, required LASOC to:

Supply training for intake and other staff on new policies and procedures resulting from the adoption of the revised 45 CFR Part 1611.

CA-5, from the prior Final Report, required LASOC to:

Provide staff training and oversight in reference to closing codes, including training on closing code definitions, documentation, and time parameters.

In its comments to the prior Final Report, LASOC stated that the above topics were covered first in a September 2005 staff retreat. Additional training was also provided through subsequent and ongoing training. LASOC provided general training on CSR updates at a staff retreat held on November 15, 2007. In addition, the Director of Operations and Director of Litigation conducted training at each office in December 2007. Training at each office was again conducted in December 2009. Training is also ongoing as needed, and training is part of the annual self-inspection process that includes a memorandum to staff at the end of each year regarding the self-inspection requirements.

Evidence supporting the success of the program's staff training efforts and success in implementation of new intake related and case management procedures was also clear from the case sampling conducted the March 2010 review, as discussed in several sections of this report, *infra*.

PAI Subcontractor Training

LASOC was also required as part of its corrective action to provide training to its subcontractors. CA-6 required LASOC to:

Provide training regarding closing codes to Public Law Counsel (PLC) and Public Counsel (PC) staff to ensure that the subcontractors are sufficiently aware of CSR case closure category requirements.

The PC is no longer an LASOC subcontractor, but a new PAI subcontractor has been added, Justice in Education (JIE). As noted by staff of PLC and JIE, the LASOC Director of Operations and the Director of Litigation conducted training for staff of both organizations. The Director of Operations also conducts ongoing training as she reviews monthly billing involved with these subcontracts. In addition, the same annual self-inspection memorandum discussed above is also sent to the PAI subcontractors.

As discussed in this report, PLC continues to have a significant number of dormant cases on its open case list, some preceding the 2005 visit. Also, there was some slight misuse of closing codes found in the case sampling at PLC, as discussed, *infra*. Finally, it was noted during the

March 2010 review that PLC failed to timely implement the new format of the citizenship attestation effective January 1, 2008, discussed *infra*.

JIE is a new subcontractor and interviews of staff and review of a sample of cases did evidence LASOC training efforts. However, there were two issue patterns noted in the review of JIE – the first involved an undercounting of cases, and the second involved the underreporting of the level of service for cases, both discussed, *infra*. Direction was given to JIE staff by the team during the visit to JIE offices, and both errors are simple to fix.

Since a few on-going compliance issues remain with PLC, and some issues were found at JIE, LASOC should take additional corrective action regarding subcontractor training and oversight. As discussed further *infra*, the subcontractor training and oversight should include: a review of all currently open PLC cases to ensure that they remain active; and targeted work with JIE to increase the level of private attorney involvement in LSC designated cases so as to ensure the PAI characterization of JIE time and cases as PAI.

Finding 4: Two (2) targeted corrective actions involving oversight of PAI subcontractors were implemented.

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5% of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or private attorney involvement requirement.

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

LASOC utilizes private attorneys in the direct delivery of legal assistance to eligible clients in four ways: as supervisors on the intake and assistance hotline, a contract with PLC, a contract with JIE and, on few occasions, judicare contracts with individual attorneys.

The program's various PAI components were reviewed as part of the FUR visit assessment of different PAI-related corrective actions from the prior Final Report. Two of these corrective actions were:

CA-10 that required LASOC to:

Enforce the oversight and follow-up provisions of the two subgrant agreements it maintains with PLC and PC; and

CA-11 that required LASOC to:

Provide oversight of PAI subcontractor cases so that cases in which advice was only provided [by] staff are closed as staff cases.

Program comments to the prior Final Report stated that, effective February 1, 2006 the contract with PLC was changed to a performance-based payment system with a set fee schedule. Further, prior LASOC comments stated that cases closed after an initial evaluation but where no additional services have been provided will be closed as staff cases, and that all other PLC cases will be closed as PAI cases. Also, comments to the prior Final Report stated that LASOC created a Pro Bono Attorney Placement Manual to assist pro bono attorneys in helping PLC clients and that a section of the manual was devoted to case reporting.

Since the 2005 review, LASOC terminated its relationship with PC and no corrective action review of PC was therefore done as part of the March 2010 review.

As discussed elsewhere in this report, the new performance-based payment system with PLC has been very effective in dramatically increasing the number of cases placed with a pro bono private attorney and otherwise accounting for PLC's PAI related activities. Further, monthly reporting from PLC, as part of its request for payment of services, has been effective in providing an ongoing oversight tool for LASOC management. As such, LASOC's corrective action regarding CA-10 was highly effective for these prior LSC concerns. However, due to the continued existence of dormant PLC cases, some additional oversight of this subcontractor is warranted.

In addition, case review and interviews conducted evidenced that LASOC has been effective at correctly designating cases that ended with staff only advice be coded as staff cases rather than PAI cases. As such, LASOC's corrective action regarding CA-11 was effective.

As previously noted, LASOC has a new PAI subcontractor since the prior Final Report, JIE, for which the above stated corrective actions did not directly apply. Nevertheless, interviews conducted evidenced that the Director of Operations has actively conducted oversight over JIE. Further, it is noted that the contractual arrangement with JIE also requires specific reporting of activities conducted. However, as discussed in other sections of this report, some additional training and oversight of JIE should be conducted.

Finding 5: LASOC took full corrective action regarding proper payment authorization involving certain private attorney contracts.

CA-13, from the prior Final Report, required LASOC to:

Revise the wording of the private attorney contracts to reflect the appropriate person authorizing the payments.

The prior Final Report found that there were adequate controls and documentation to support the payments of services by contract/private attorneys who supervise the hotline and program clinics. However, the prior contracts reflected that the only person authorized to approve the invoices was the LASOC Executive Director. Since in actual practice, it was the staff supervisor of the hotline who authorized the payments, LASOC was required to change the wording of such contracts to reflect the appropriate authorizing person.

Examination of current *Contracts for Attorney Services* for the involved private attorneys found that timely and full corrective action for this item was taken. Contractors are now required to submit itemized billing monthly which, upon approval of the supervisor of the hotline unit, will be paid within 15 days.

Finding 6: LASOC PAI contracts that relate to part-time private attorney assistance for oversight of the program's hotline were properly designated and attributed as PAI.

The LASOC intake and legal advice hotline effectively uses private attorneys in the direct provision of legal assistance. LASOC has entered into contracts with four (4) attorneys to serve as the supervising attorneys for the hotline every Monday and Tuesday. Accordingly, the contract costs, and the related time of the intake screeners on Mondays and Tuesdays are correctly allocated to PAI. It is the daily supervising attorney of the hotline who provides the legal advice under a two step process in which LASOC intake workers screen first for eligibility and, for accepted clients, the intake worker will then obtain direction from the attorney as to the advice to provide. The advice can be verbally provided to the screener to relay to the caller, typed directly into the ACMS for the screener to relay to the caller, or in some instances provided directly to the caller by the supervising attorney. As such, all of the advice and brief service cases closed as advice and counsel during those hotline sessions supervised by a private attorney are properly designated as PAI cases. In contrast, the advice and brief service cases completed on other days (when the supervisor is a staff attorney) are correctly reported as staff cases.

Finding 7: Oversight and accountability by LASOC of the PLC pro bono effort was improved since the prior visit. However, targeted corrective action is necessary regarding open PLC cases to ensure that noted dormancy issues are fully resolved. As a result of dormant cases, LASOC is not in full compliance with 45 CFR § 1614.3(d)(3) that requires oversight and follow-up of PAI cases.

45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources. This requirement, when properly implemented, also helps a program avoid dormant or inactive PAI cases.

LASOC subgrants non-LSC funds to the PLC to obtain pro bono referrals for certain cases referred from the LASOC hotline. PLC handles a variety of legal problems, including family, consumer, immigration and housing. It employs 14 attorneys, including four (4) Equal Justice Works AmeriCorps attorneys, and two (2) paralegals.

All referrals by LASOC to PLC are LSC-eligible clients who have been provided advice but need additional assistance. In addition to these referred cases, PLC conducts its own intake, using its own forms, to identify possible other LSC-eligible cases. PLC will then determine whether to provide additional limited assistance, handle the case in-house, or refer the case to a private attorney for additional LSC-eligible cases. PLC also receives funds from other sources and operates its own independent intake stream of other non-LSC cases.

A sample of 11 PLC cases reviewed at PLC offices during the March 2010 review evidenced that nine (9) were successfully placed with a private attorney. In-house PLC staff attorneys handled the remaining two (2) cases.³³ At the time of the prior OCE visit in 2005, few cases were successfully referred by PLC to private attorneys. In response, LASOC revised its contract with PLC to provide financial incentives for the placement of cases with pro bono attorneys. After the 2005 review, LASOC revised its subgrant agreement with PLC so as to make the contract more activity and result based. The current contract, for the term October 1, 2009-September 30, 2010, provides for a maximum of \$57,750.00 based upon monthly billing statements. PLC is paid: \$75 as an evaluation fee for each applicant referred by LASOC (up to a maximum of \$1,875.00 per month); \$350 for each case placed with a pro bono attorney for in-depth services (up to a maximum of \$1,400 per month); \$40 per hour for work conducted by PLC staff (up to a maximum of 40 hours or \$1,600 per month); and \$50 for closing each case placed with a private pro bono attorney (up to a maximum of \$1,000 per month). The agreement also provides for \$250 for each weekly Family Law Workshop³⁴ and \$900 for each substantive legal training event provided to LASOC staff. The new arrangement has improved LASOC's control of PAI activities by this subcontractor and has resulted in a majority of cases being placed with pro bono attorneys.

Case review revealed that PLC does not provide adequate ongoing oversight to the cases placed with pro bono private attorneys, and significant dormancy issues were noted. Although the closed cases reported as a CSR did reflect timely closure, a significant number of open cases are dormant and/or potentially inactive.

Of the 76 cases open at the time of the March 2010 review, six (6) were randomly selected for review and, of these, five (5) were dormant. Two (2) of these cases were opened in 2004 and reflected no status reports or legal assistance.³⁵ All five (5) inactive cases had been referred to pro bono attorneys. The only open case sampled that evidenced active work was being handled

³³ The cases handled directly by PLC staff will need to be designated as non-PAI cases, as discussed *supra*.

³⁴ As discussed below, the weekly Family Law Workshops were allocated toward LASOC's PAI requirement, although the assistance was provided to unscreened persons who were not considered to be clients of the program. LASOC is considering reorganization of this workshop so as to provide services to eligible clients screened through the hotline. It was further stated that PLC may also cease participation in this workshop effort.

³⁵ See PLC Open Case Nos. 05E266922 (opened 3/22/05), 06E354736 (opened 9/13/06), 06D329609 (opened 4/11/06), 04E247843 (opened 11/15/04), and 04E246160 (opened 11/2/04). All of these cases were placed with pro bono attorneys and at the time of the March 2010 review reflected no legal assistance.

by an in-house PLC attorney. It appears the dormancy issue is related solely to the lack of follow-up on cases referred to private attorneys. The current case follow-up procedure by PLC was described as being a status report request sent every six (6) months to attorneys with open cases. However, there are no procedures to track and follow-up with the attorneys that do not respond. This lack of effective follow-up and presence of dormant cases is a violation of 45 CFR § 1614.3(d)(3) that requires periodic case oversight for PAI cases. Comprehensive and focused corrective action is required so as to permanently end PLC case dormancy. As part of this every open PLC case must be reviewed to determine whether the case is fully dormant or not, and whether additional case follow-up is necessary. Once that effort is completed, periodic reporting from, or oversight of, PLC regarding open cases, should be instituted by LASOC. When closing currently open cases that are significantly dormant, the files should be closed in a manner that deselects them from reporting to LSC in a future CSR.³⁶ Comments to the DR stated that LASOC gave PLC a copy of the DR and later met with PLC to discuss the issue of dormancy. Comments also stated that prior to meeting PLC had conducted a review of all open cases and closed dormant cases in a manner that would deselect the appropriate cases from future CSR reporting. Importantly, LASOC stated that it will expand its oversight system to include a semi-annual review of a random sample of PLC's open cases to ensure that PLC's follow-up system on cases referred to private attorneys is effective.

LASOC has conducted regular oversight of closed cases reported by PLC including review of monthly billing statements and providing an annual memorandum regarding the self-inspection and CSR. The LASOC Director of Operations conducts the self-inspection including PLC cases and it appears her review is very thorough. However, the oversight by LASOC does not appear to include standard testing of open cases, which could assist in ending dormant cases. LASOC should take immediate corrective action and provide direct oversight to the LSC-eligible PLC open case list. Those cases that are excessively dormant should be closed and deselected from LSC CSR reporting. Also, LASOC should ask PLC to adopt more effective ongoing open case follow-up procedures so as to ensure that cases are completed and reported in a timely manner. In addition, oversight of open cases by LASOC during its periodic oversight of PLC would also assist in improving timely case oversight and case closure. LSC notes that the need for effective follow-up is not merely a compliance issue but is also critical to ensure that pro bono clients are receiving timely legal assistance.

In addition to the issues with dormancy and inadequate follow-up, other smaller issues were identified in the PLC case sample as discussed, *infra*. These issues include incorrect CSR closing code usage, untimely implementation of a proper citizenship attestation form, and reporting to LSC cases that failed to have a proper form of an executed citizenship attestation.

Finding 8: A new LASOC PAI contract with Justice in Education (JIE) is handling detailed education related cases. Some underreporting of JIE cases needs to be corrected.

³⁶ LASOC and PLC are reminded of the additional time/flexibility afforded to PAI pro bono cases. For pro bono cases, LSC allows an additional calendar year in which a case can be reported as still timely. For example, if a private attorney completed a pro bono case in January of 2009, but the program did not learn of the successful completion until late 2010, that case can still be reported as a timely pro bono case. The rule only allows an extension from the current year. Any of the cases completed prior to January 2009 must be deselected as untimely.

Also, direct involvement of private attorneys on more of the cases handled is necessary to ensure that all JIE work can be designated as PAI.

JIE is an organization that provides consultation, training and advocacy for special needs children and their parents working with School Districts to ensure appropriate placement and accommodations. JIE has three (3) staff: an attorney, a paralegal, and an information technology specialist.

LASOC subgrants non-LSC funds to JIE to handle special needs education cases. Potential cases are referred by LASOC's hotline and are all LSC-eligible clients. JIE meets with the client, and obtains citizenship attestations or reviews eligible alien documentation using LASOC's forms. JIE uses its own client retainer agreement. After JIE's initial assessment, JIE staff may provide further advice or additional assistance in the development and implementation of an Individual Education Plan (IEP), or at education due process hearings. Cases are kept open for monitoring until JIE staff becomes assured that the parent or guardian can effectively monitor the implementation of the child's IEP.

LASOC commenced its relationship with JIE on April 1, 2007. The current contract, for the term February 1, 2009-January 31, 2010, and extended through amendment, states that JIE will: conduct workshops; provide intake training to LASOC (so that hotline staff are able to conduct appropriate educational issue spotting); provide legal training to LASOC staff on special education law; and provide advocacy and legal representation. Advocacy and legal representation is to be provided in the cases involving a Student Intervention Team, development of an IEP, implementation and monitoring of established IEPs, and due process hearings, at a rate of \$50 per hour. Each monthly payment is not to exceed \$2083.33, up to an annual maximum of \$25,000.

JIE case lists provided by LASOC evidenced that in 2008 JIE closed 14 cases and in 2009 it closed 13 cases. There were 44 open cases at the time of the March 2010 review. Case review revealed that JIE is underreporting the number of cases handled, due to a misunderstanding of LSC rules. JIE captures legal assistance provided to multiple children in the same household as a single case number. However, unique assistance must be provided to different children, based upon their unique special education issues, and therefore a separate case for each child should be counted.³⁷ Although only one such case was in the case sample, JIE staff stated that this same procedure has been used for all similar cases. This practice has resulted in a potentially significant undercounting of cases and should be corrected for the next CSR report, and for all future like cases.³⁸

JIE is also underreporting the *level of service* regarding its cases with respect to closure codes. JIE closes the majority of its cases involving IEPs with a B closing code. However, these cases involve extensive interaction with third parties on behalf of the client and extensive on-going

³⁷ See JIE Open Case No. 08E449820.

³⁸ There was one case discussed in which potentially five (5) children were assisted in one family, thus indicating the degree to which undercounting is occurring might be significant. To expedite the correction of this issue, the LSC team explained the proper manner of identifying separate cases under LSC CSR Handbook rules.

assistance after the implementation of the IEP to ensure that the school district adequately applies its provisions. Therefore these cases should be closed as “L”, extended service.³⁹

Finally, of a case sample of eight (8) JIE cases, only two (2) involved a private attorney (where the private attorney actually handled the case). JIE staff (either the JIE attorney or a paralegal under his supervision) handled the remaining six (6) cases, raising questions whether such cases can be designated as PAI. LSC Advisory Opinion # AO-2009-1004 discusses the designation of who may be considered a “private attorney” for purposes of 45 CFR Part 1614. Efforts should be made to have some level of private attorney involvement with cases so that JIE cases all qualify as PAI.⁴⁰

Sampled JIE cases evidenced timely closure of closed cases and adequate oversight of open cases. LASOC conducts oversight of JIE’s closed cases through monthly bills and through the annual LSC self-inspection process.

LASOC should conduct follow-up with JIE to include additional case oversight, discussion and training to ensure that: multiple cases are reported when JIE handles different cases within the same family; that cases with extensive work are properly closed with a higher level closing code;⁴¹ and that cases designated as PAI have had the involvement of a private attorney.⁴²

Finding 9: There are a few PAI contract attorney cases. These cases are properly designated as PAI and directly managed by the Director of Litigation.

On rare occasions LASOC will refer out cases for higher level of services to private attorneys. These cases are referred to the same “contract attorneys” who assist with the periodic oversight of the LASOC hotline. One contract case open at the time of the March 2010 visit was reviewed and had no issues noted.⁴³ Contract attorney cases are not tracked as “PAI” while open, as the Director of Litigation has instructed that the computer track these cases as assigned to her. The Director of Litigation explained that these cases are assigned to her so that they would show up on her open case list and she could provide appropriate oversight. When such a case is closed, the Director of Litigation will change the coding to designate it as PAI.

³⁹ While only one case was identified in the case sample that misused “B” instead of “L” (JIE Closed Case No. 08E444813), JIE staff stated that all similarly situated cases have also been closed with a “B”. JIE staff now understands that for the 2010 CSR and the future, that these cases are extended services.

⁴⁰ While JIE has been successful in referring some cases to private attorneys for representation by those private attorneys, it is also possible for JIE to involve private attorneys in additional roles other than being the primary case handler on a particular case. This may be particularly important due to the highly specialized area of IEP and special education, and the need for JIE to actually train interested or new private attorneys in how to conduct this area of law. Another possibility to consider -- other LSC recipients have used “trading” to increase PAI involvement in specialty areas – whereby free training is “traded” for a promise by an attorney to take two (2) or more pro bono cases once trained.

⁴¹ Comments to the DR stated that LASOC has complied with this directive by meeting with JIE staff to provide training on closing codes and related issues.

⁴² On this last item, comments to the DR reiterated the program’s position that it will comply with AO-2009-1004 to ensure that only those cases that have the involvement of a private attorney will be allocated to PAI.

⁴³ See Santa Ana Open Case No. 09E494914.

Another contractor case closed in 2009 was mistakenly deselected from 2009 CSRs. The case was referred out to a contract private attorney to assist in a divorce.⁴⁴ A second divorce staff case for the same client was also in the LASOC CMS, but both were unique cases, as discussed further, *infra*.

Finding 10: Two (2) recent LSC legal opinions require that LASOC implement a few new changes regarding proper classification and cost allocation for certain PAI activities.

Since the last visit in 2005, two (2) LSC legal opinions have been issued that have some limited effects on LASOC's PAI program, as identified during the March 2010 review. Neither of these issues was a subject of corrective action from the last review. Both of these issues, discussed below, were first identified as areas of focus during the March 2010 review. In one instance, the issue was shared with the program during the March 2010 review and management took complete and comprehensive corrective action during the review week. The second issue was not provided as a conclusion to program management during the on-site review as it was not fully developed. As such, the second item will require the program to take some focused corrective action to ensure that certain PAI subcontractor cases and related costs are properly designed not as PAI, as explained below.

LSC External Opinion # EX-2008-1001

LSC External Opinion # EX-2008-1001, issued March 19, 2008, states that a recipient cannot allocate to its PAI requirement activity undertaken by private attorneys for persons who have not been determined to be eligible and are not considered clients of the recipient.⁴⁵ During the March 2010 review, LASOC was found to have included as PAI expenses, costs related to self-help clinics in which the participants were not screened for eligibility. These allocations included both time costs of LASOC staff attorneys and costs of contractor private attorneys in servicing these clinics. LASOC had utilized private attorneys in the provision of legal information to unscreened persons in: Self-Help Centers; a "Wednesday Night Family Law Workshop"; and a monthly Education Workshop. All of the services rendered were reported as "other services". LASOC allocated the value of support of these activities toward its PAI requirement.

This observation was shared with LASOC management early in the review, and LASOC fiscal staff took immediate and comprehensive corrective action during the March 2010 review week.⁴⁶

⁴⁴ See Santa Ana Closed 2009 Case No. 09E495554.

⁴⁵ This opinion noted that grant recipients are required to devote an amount equal to at least 12.5% of their respective annualized basic field grant to the involvement of private attorneys in the delivery of legal services. See 45 CFR § 1614.1(a). It also discussed that the PAI program is intended to involve private attorneys in the delivery of legal services to "eligible clients" and noted that there are repeated references to the phrases "eligible clients" "legal assistance to eligible clients" and "legal services to eligible clients" in nearly every section and subsection of the regulation. See, e.g. 45 CFR §§ 1614.1(a); 1614.1(c); 1614.2(a); 1614.2(b); 1614.2(c); 1614.3(a); 1614.3(b); 1614.3(c); 1614.3(d); 1614.4(a); and 1614.4(b).

⁴⁶ Comments to the DR added that LASOC will comply with External Opinion #EX-2008-1001 regarding the types of activities that can be charged to PAI. Comments also stated that as part of its compliance efforts in this regard that LASOC has undertaken a review of all of its PAI activities and determined that only activities involving legal assistance to eligible clients are being allocated to PAI.

Journal entries were made to back-out the above-described activities from the program's 2009 PAI allocation. Adjusting entries for Fiscal Year Ending (FYE) 1-31-2010 (unaudited at the time of the review) were as follows:

Judicare-Compton Self-Help Center	5,037.50
	1,105.00
Public Law Center-Family Law Clinic	11,500.00
Lamoreaux Justice Center Self-Help	5,963.72
	7,529.19
Small Claims	<u>10,040.00</u>
Total Reversed from 2009 PAI	\$41,175.41

Also, adjustments were made to the current 2010 period as well. These adjusting entries have no overall compliance effect on the LASOC 12.5% PAI requirement level, as the program has substantially exceeded the 12.5% requirement in recent years. Based on audited 2008 figures, LASOC exceeded the 12.5% by \$123,718 (2008) and the unaudited figures for 2009 indicated an excess of \$277,578.

It is noted that program management was also in the planning stages of reorganizing its family and education workshops and that it would take into consideration the provision of services to eligible clients so as to allow these activities to be designated as PAI.

LSC Advisory Opinion # AO-2009-1004

LSC Advisory Opinion # AO-2009-1004, issued June 19, 2009, states that:

For the purposes of the PAI rule, where a staff-model legal services provider receives funds from an LSC recipient (regardless of the original source of the funds) to perform programmatic activities, an attorney who receives more than one half of his/her professional income from that staff-model legal services provider is not a "private attorney". As such, direct legal assistance by those attorneys cannot qualify as PAI activity and a recipient may not report such cases as PAI cases on its CSR.

This opinion, based upon the definition of a private attorney found at 45 CFR § 1614.1(d), slightly affects LASOC regarding its current contracts with two (2) staff-model providers to provide pro bono assistance. Both of these organizations attempt to refer a majority of LASOC related cases to pro bono attorneys, and these efforts are unaffected by AO-2009-1004. However, a few cases will be resolved by the provision of legal advice by the subcontractor's full time staff attorneys, and for such cases, they should not be reported as a PAI case in the CSR. Further, the costs involved with these non-PAI cases should not be allocated to PAI. LASOC currently allocated the entire amount of the two (2) contracts toward its PAI requirement. Some delineation of time spent on the non-PAI staff cases will be necessary going forward so that such time is not designated as PAI.

For any case taken by one (1) of the two (2) LASOC PAI subcontractors, only the time associated with the cases assigned to a pro bono attorney should be fully charged as PAI. For cases received by the subcontractors and immediately kept for work by a staff attorney, all charges related to the case should be designated as non-PAI. However, when attempts to refer a case to a pro bono attorney are made, it is reasonable for the associated costs of the attempted referral to be attributed to PAI. In the case of PLC, this would mean that the \$75.00 “evaluation fee” would be chargeable as PAI. However if a staff attorney ultimately handles the case, the other associated costs should be charged as non-PAI.

The DR was the first notice provided to the program regarding the above finding, and specifically for the need to take some targeted corrective action so as to ensure that cases handled by the full time staff of either PAI subcontractor are not designated as PAI and that the associated time is likewise not attributed to PAI. In LASOC’s response to the DR, the program stated clearly that it would comply with LSC Advisory Opinion #AO-2009-1004 and no longer include cases handled by full time staff attorneys of subcontractor organizations as PAI cases.⁴⁷

Finding 11: The review evidenced a need for further corrective action regarding the financial procedures used to identify and account properly for costs related to the PAI effort.

45 CFR § 1614.3(e) requires that a recipient:

“... Shall demonstrate compliance with this part by utilizing financial systems and procedures and maintaining supporting documentation to identify and account separately for costs related to the PAI effort. Such systems and records shall meet the requirements of the Corporation’s Audit and Accounting Guide for Recipients and Auditors and shall have the following characteristics: (1) They shall accurately identify and account for: (i) The recipient’s administrative, overhead, staff, and support costs related to PAI activities. Non-personnel costs shall be allocated on the basis of reasonable operating data. All methods of allocating common costs shall be clearly documented. If any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities. The timekeeping requirement does not apply to such employees as receptionists, secretaries, intake personnel or bookkeepers; however, personnel cost allocations for non-attorney or non-paralegal staff should be based on other reasonable operating data which is clearly documented....”

CA-12, from the prior Final Report, required LASOC to:

Revise its financial systems so as to identify and account for all costs related to PAI as required by 45 CFR § 1614.4(e).

⁴⁷ Comments also noted that as set forth in this report, that when attempts to refer a case to a pro bono attorney that associated costs of attempted referrals to PAI that LASOC will allocate the associated costs of the attempted PAI referral.

The previous Final Report had found that LASOC allocated its paralegal salaries to PAI on a percentage basis based on estimates, and then subsequently adjusted the allocation when compared to actual timekeeping records, and prepared a corresponding journal entry to adjust the difference if needed. This practice was not in compliance with the requirements of 45 CFR § 1614.3 (e)(1)(i) that "any direct or indirect time of staff attorneys or paralegals must be documented by time sheets, accounting for the time those employees have spent on PAI activities".

In response to the prior draft report, LASOC management stated that for the fiscal year ending January 31, 2006, paralegals salaries related to PAI will be prepared on actual time from timekeeping records, as recorded in the CMS per 45 CFR § 1614.3(e)(1)(i). The corrective action taken in this area was reviewed during the March 2010 visit. A test of the payroll system for six (6) pay-periods in 2008⁴⁸ was conducted. PAI charges for advocate staff, primarily part-time paralegals on the hotline working under the direction of a contract private attorney, were found to be *initially* based on payroll allocation computations calculated on an annual basis.⁴⁹ Examination of the contemporaneous timesheets of PAI active staff correctly reflected appropriate PAI designated time. Based on these timesheets, a quarterly re-computation is made to reflect the actual salary and benefits attributable to PAI. A journal entry is made quarterly to provide actual costs as reflected in the contemporaneous timesheets submitted for payroll purposes.⁵⁰ In the periods tested, this recompilation was correctly done, and resulted in an increased actual PAI cost allocation, than the initial three-month projected allocation. Even though the ultimate related staff costs attributed to PAI is currently done according to contemporaneous timesheets as reconciled on a quarterly basis, this does not represent full corrective action. The DR requested that LASOC take further corrective action so that the monthly allocations are done as based on actual time records and not on estimates. Comments to the DR stated that LASOC will comply with this directive and that all casehandler time attributed to PAI is based on actual time sheets.

Interviews with LASOC staff and management, and review of program fiscal documentation also indicated a need for further corrective action regarding certain overhead charges made regarding PAI. Examination of LASOC Annual Audits for FYE 1-31-2007, 1-31-2008, and 1-31-2009 (unaudited), reflected PAI costs which included PAI "attorney" time being charged (in the test period) attributable to the Executive Director, the Director of Litigation and a Special Projects Attorney/Director of the Hotline. These PAI payroll charges are based on allocation computations (performed on an annual basis) and not on any contemporaneous time sheets indicating PAI time as direct or indirect time. Program management noted that these time charges are for the performance of administrative and management functions (as opposed to staff attorney functions). As such, detailed timekeeping is not required. However, in the absence of such time records, the costs attributed to the administrative and management functions would

⁴⁸ The periods tested were February 1, 15 and 29, 2008 and August 1, 15 and 29, 2008.

⁴⁹ Personnel cost allocations used are prepared annually and periodically updated by the Director of Operations. These allocations are calculated as based on the percentage of total available funding available for administrative purposes (some grants are restricted as to use) and past application of PAI time by the employee.

⁵⁰ Each quarter the paralegal re-computation is prepared reflecting monthly, cumulative, and year-end actual PAI payroll expenses for each paralegal for whom PAI costs are attributed, as evidenced by program fiscal records reviewed.

normally be captured by the standard overall allocation of common costs to PAI.⁵¹ LASOC already uses a standard computation process for allocation to PAI of common costs and overhead by determining the ratio of PAI salaries and benefits to that of the organization as a whole. Under the current method used by LASOC, the posting of the PAI “administrative” time charges, as based on estimations, would result in the inflation of PAI personnel costs for purposes of the overall “common costs and overhead” computation.⁵² Manager time not supported by time records should be allocated to PAI only once, through the standard common costs and overhead computation. Corrective action must be taken to cease the allocation of estimated administrative time towards the PAI allocation. Comments to the DR agreed with this conclusion and stated that LASOC would cease the allocation of estimated administrative staff time towards the PAI 12.5% calculation.

Finding 12: Sampled CSR-designated⁵³ cases evidenced that LASOC’s automated case management system (ACMS) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.⁵⁴

Recipients are required to utilize ACMS and procedures that will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. *See* CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1.

The prior Final Report required LASOC to take some targeted corrective action regarding data entry coding. In CA-9, LASOC was required to:

Ensure accurate data entry by staff into the CMS, particularly in reference to coding.

The above corrective action was assessed during the March 2010 review through the cases sampled. In addition, as discussed further, *infra*, a specialized open case list was produced by

⁵¹ Of course, in the alternative, if LASOC management wishes to keep actual contemporaneous detailed time records regarding their PAI specific work, then such time could be directly charged to PAI. However, time *estimates* should not be attributed to PAI for administrative functions.

⁵² Inasmuch as these directors and managers do not maintain time sheets that account for the time spent on any direct or indirect PAI time, there is no absolute method by which to determine if the process used resulted in the inflation/deflation of common or overhead costs for PAI.

⁵³ The qualifier “CSR-designated” is placed before the word “cases” in all findings that involve case sampling. This term is used to indicate that the only cases that could be sampled are those designated as potential CSR cases. None of the services provided by the LRC are included in the term “CSR-designated” as used in this report. In other words, for LRC services in which legal services or legal advice was potentially or actually provided, there is no file maintained, and no case sampling could be done.

⁵⁴ For the remaining sections of this report, Findings 12 through 35, the conclusions presented do not include an assessment of any of services provided by LRC that might have included legal advice. For any services provided by LRC that have the provision of legal advice or legal services, there is no compliance with those LSC requirements affirmatively requiring screening, documentation, or case tracking, as no screening is done or files maintained. For those sections of this report addressing prohibitions on LSC recipients, there can no review of LRC work via case sampling, as there are no records of any individualized service maintained. However, LSC has no reason, and there was no evidence to indicate, that the LRC has violated any of the restrictions found in Findings 27 through 35.

LASOC and assessed by the team. This list identified any open case for which there were no time charges for six months or more.

A comparison of the information yielded by the ACMS to the information reflected in the case files sampled evidenced that LASOC has substantially improved the data entry and coding issues noted by the prior Final Report. The ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. A very few sampled cases contained exceptions between the information in the case file and the information in the ACMS. Most exceptions appeared to be the result of simple human error, involving usually an incorrect coding *choice* as distinguished from any data entry errors.⁵⁵

There were two (2) patterns of errant coding identified that at first appeared problematic but were determined to not be ongoing or significant. The first of these involved PAI bankruptcy clinic closed 2008 and 2009 case lists. On these lists several cases were identified in the “Reason Closed” column, as “*Settlement or Court or Administrative*” – which is not an LSC CSR closing code. Investigation revealed that these cases were properly closed as “L”. The ACMS description for the L code describes “L” as: “*Other Action Not a Result of Settlement or Court or Administrative.*” In an apparent computer glitch, the letter “L” did not print on the lists but instead its last few definitional words. As these were still clearly tracked as “L” cases, there is no underlying concern. In the second pattern noted, the PLC closed 2008 case list included a few cases with a Reason Closed as “LB” – which is also not an LSC CSR closing code. Investigation revealed that these cases were correctly closed as “I-B”. Again, as these cases could be identified and corrected to “I-B” and all of the “LB” cases were consistently “I-B”, there is no underlying concern. Both of the occurrences appeared to have been one-time computer glitches and insignificant. Small glitches such as these are normal with ever developing and improving complex case management systems. It is noted that the LASOC Data Base Manager is highly effective and is able to continually improve the automated systems and does so as needed.

The above finding includes no assessment of any of the services provided by LRC. For any services provided by LRC that amount to the provision of legal advice or legal services, there is no compliance with the above, as no screening is done or files maintained.

Finding 13: A comprehensive review of the LASOC intake system was not conducted as part of the FUR. However, sampled CSR-designated cases indicated that, overall, LASOC’s intake system clearly supports applicant screening and related compliance efforts.

⁵⁵ Inconsistencies were minor and involved four (4) cases in which there was an improper choice of closing code made by different staff members. For further discussion on closing codes, *see* dedicated report section, *supra*.

Cases sampled during the March 2010 review evidenced that the LASOC intake system consistently supports necessary client screening and overall related program compliance efforts. LASOC has a central “hotline” intake system for all cases throughout its program area, including branch offices, at the main office in Santa Ana that is manned from 9 am – 5 pm daily every workday. The hotline determines whether to formally open a case or to resolve the issue telephonically as advice and counsel. Cases that require further legal action are directly referred to the appropriate office that will then schedule an appointment for the applicant and may accept the case for higher-level legal assistance. LASOC has a “Matrix” CMS which basically requires the input of all information necessary to qualify the applicant for legal services under any of LASOC’s grants, including its LSC grant. The program’s automated CMS continues to be a strength of the program, as noted in the prior Final Report. Further, the manager responsible for necessary system improvements and changes is highly capable and has been able to creatively use the automated system to support and enhance the program’s screening, data recovery and related compliance efforts.

Some intake occurs offsite by hand. In all sampled cases that were initiated offsite, files contained similar evidence to support a fully compliant screening. There is one minor change necessary regarding increased detail recordation for certain “over-income” cases, discussed, *infra*.

Finding 14: Sampled CSR-designated cases evidenced that LASOC maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income exceed 125% of the Federal Poverty Guidelines (FPG). However, one minor documentation change for certain over-income case files is needed. Finally, LASOC has taken effective corrective action to ensure that it only reports LSC-eligible senior cases in the LSC CSR.

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant’s household and the total income before taxes received by all members of such household in order to determine an applicant’s eligibility to receive legal assistance.⁵⁶ *See* 45 CFR § 1611.3(c)(1), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2001 Ed.), ¶ 5.2 and CSR Handbook (2008 Ed.), § 5.2.

In those instances in which the applicant’s household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines FPG and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of

⁵⁶ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2001 Ed.), ¶ 5.3 and CSR Handbook (2008 Ed.), § 5.3.

the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient “clients” and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2001 Ed.), ¶ 4.3(a) and CSR Handbook (2008 Ed.), § 4.3.

Sampled cases evidence that LASOC consistently obtains the required documentation to comply with LSC’s income screening requirements for clients whose income is under 125% of FPG. A slight increase in detail regarding “fixed debt obligations” for clients whose income is between 125-200% should be adopted going forward, as discussed below.

In over 15 cases sampled, the client’s income was between 125-200% of FPG, with the program having timely designated a factor of “fixed debt obligations” as an appropriate reason for accepting the otherwise over-income case.⁵⁷ Staff interviewed described the types of fixed debts that are allowed as part of this exception and the explanations provided were compliant. However, the program has been making no detailed notation of the exact type of fixed debt, or the general amount of that debt. This was discussed with program management and the technology manager stated that a simple addendum to the screening line would be added to the automated LASOC intake form to obtain this information going forward.⁵⁸ The information regarding the nature and general amount of the debt (i.e. does the size of the debt significantly affect the client) needs to be recorded so that the client’s exception is clearly established.

Finally, the prior Final Report required corrective action regarding reporting of senior cases. CA-3, from the prior Final Report, required LASOC to:

Ensure that the program does not report over-income senior cases in its CSRs.

Comments to the prior Final Report stated that this problem was solved using technology and that the CMS query that creates CSR reports now automatically screens for income and asset eligibility before including a case in the LSC CSR report. During the March 2010 review, focused sampling of senior cases reported to LSC was conducted. In a sample of 21 cases tested, all were found to be LSC income eligible and correctly reported to LSC. LASOC has taken fully effective corrective action to address CA-3 from the prior Final Report.

⁵⁷ *See e.g.* Compton Closed 2008 Case Nos. 08E444055 and 08E475171 and Santa Ana Closed 2008 Cases Nos. 08E459536, 08E440221, and 07E437247.

⁵⁸ Comments to the DR confirmed that LASOC’s Matrix case management system is being revised to record the additional fixed debts data, as recommended.

Finding 15: Sampled CSR-sampled cases evidenced that LASOC maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), and CSR Handbook (2008 Ed.), § 5.4.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.⁵⁹ *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008), § 5.4.

In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

The revisions to 45 CFR Part 1611 changed the language regarding assets from requiring the recipient's governing body to establish, "specific and reasonable asset ceilings, including both liquid and non-liquid assets," to "reasonable asset ceilings for individuals and households." *See* 45 CFR § 1611.6 in prior version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the Executive Director. The revised version allows the Executive Director or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR § 1611.6(e) in prior version of the regulation and 45 CFR § 1611.3(d)(2) in the revised version. Both versions require that such exceptions be documented and included in the client's files.

Every LSC-designated case reviewed had clear evidence of appropriate asset screening. In addition, cases sampled had near-perfect evidence of asset eligibility.⁶⁰

Finding 16: Sampled CSR-designated cases complied with the screening and documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens) for staff cases designated for CSR reporting. However, until sufficient clarity is developed between the exact types of legal information services that can be done by the LRC and the exact types of services that are legal advice, there is the possibility of non-compliance with Part 1626 for any LRC service that might or does include legal advice. Finally, one PAI subcontractor failed to timely implement the new citizenship attestation format, with the result that some cases reported to LSC failed to have the correct attestation format.

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for

⁵⁹ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008 Ed.), § 5.4.

⁶⁰ In every case, but one, the evidence of assets screening clearly evidenced that the client was LSC-eligible under LASOC's board adopted assets policy. The one exception involved what appeared to be a simple coding mistake and involved no identified system weakness and is therefore insignificant.

legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁶¹ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

For staff cases, LASOC initially collects citizenship attestations on a standardized form with a compliant statement and an alien eligibility form to document screening of eligible non-citizens. LASOC use of its form for non-citizens was found to be consistent and strong, with over 25 such sample cases being correctly documented. In each telephone-only intake and service case, indication of appropriate screening was present. For all instances when the client was seen in person, LASOC staff documented that they had reviewed and verified the documentation and non-citizen eligibility.⁶²

JIE uses the same Part 1626 forms as LASOC. Interviews of JIE staff indicated that they understood how to properly use these forms for both citizen and non-citizen screening.

Different from the above, PLC conducts some independent intake using its own forms, including a unique citizenship attestation. PLC also does not use a form to document eligible alien screening; instead, a staff member copies the document(s) that demonstrates eligibility. Accordingly, the date of the non-citizen screening by PLC is not documented. LASOC should require PLC to utilize LASOC's forms for both citizenship and to document eligible alien status for any cases attributed to LSC eligible PAI. The LASOC form includes signature and date lines for use by the staff member when conducting non-citizen screening and would therefore uniformly evidence, if used properly, that the screening occurred prior to case acceptance as required.

⁶¹ *See* Kennedy Amendment at 45 CFR § 1626.4.

⁶² *See e.g.*, Santa Anna Closed 2008 Case Nos. 08E438061, 08E463775, 08E459104, and 05E257177.

The CSR Handbook (2008 Ed.), § 5.5 requires that the signature line be tied only to the attestation. The LSC cover letter to the CSR Handbook (2008 Ed.) requires that any cases reported to LSC after January 1, 2009 must comply with the new handbook regardless of the year it was opened. LASOC and JIE comply with this requirement. PLC implemented a compliant attestation in early 2008; however, for closed 2009 cases it did not obtain new, compliant attestations for those cases opened before the implementation of the new form. There is no concern that PLC provided LSC designated PAI service to persons not eligible under Part 1626. However, this is a minor compliance defect as the proper form for citizenship attestation was not present in all files reported in 2009. Two such cases were identified in the small PLC case sample conducted, although interviews revealed that other similar cases exist.⁶³

As part of its future oversight of PLC, LASOC should take corrective action and review PLC's currently open and any closed 2010 cases to determine whether they contain a compliant citizenship attestation format. If not, a proper form should be obtained, or the cases should be simply deselected from future CSR reporting.⁶⁴

As discussed previously, *supra*, if any services conducted by LRC amounts to the provision of legal advice and/or matches services provided by non-LRC LASOC units, then screening and documentation under Part 1626 is required. However, it is anticipated that this issue should be resolved by the future corrective action to be taken to clearly distinguish LASOC legal information services from legal advice "case" services, as provided by different LASOC units and staff.

Finding 17: Sampled CSR-designated cases evidenced compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁶⁵ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

CA-4, from the prior Final Report, required LASOC to make changes to its retainer form regarding attorneys' fee language. LASOC made the required changes to its form. As such, this

⁶³ *See* PLC Closed 2009 Case Nos. 071011602 and 071011543.

⁶⁴ Comments to the DR indicated that LASOC took full corrective action on this item. Comments stated that PLC has adopted LASOC's citizenship attestation form and that any closed cases not having this form will be deselected from CSR reporting.

⁶⁵ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

corrective action area was timely and fully addressed. It is noted that Congress and the LSC Board have recently lifted this restriction.

All sampled cases contained a retainer agreement where required. The retainer agreements contained appropriate descriptions of scope and subject matter, and in several instances, LASOC obtained additional retainer agreements where necessary, to reflect changes to scope and subject matter, as the case progressed. Retainer practices were strong.

Finding 18: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations. In addition, the regulations require that recipients prepare a dated, written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint. *See* 45 CFR §§ 1636.2(a) (1) and (2).

The statement is not required in every case. It is required only when a recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or when a recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

Sampled cases evidenced that when required, LASOC obtains an appropriate statement that meets the requirements of 45 CFR Part 1636.

Finding 19: Sampled CSR-designated cases evidenced that LASOC provides legal services to program clients within the program priorities as required by 45 CFR § 1620.1 (Priorities in use of resources) and CSR Handbook (2008 Ed.), § 2.1(b).

LSC regulations require that recipients adopt a written statement of priorities that determines the cases that may be undertaken by the recipient, regardless of the funding source. *See* 45 CFR § 1620.3(a). Except in an emergency, recipients may not undertake cases outside its priorities. *See* 45 CFR § 1620.6.

All cases sampled evidenced compliance with 45 CFR Part 1620 regarding program priorities. It should be noted that there was no assessment conducted as to whether any of the services provided by the LRC that amounted to legal advice, had complied with 45 CFR Part 1620.

Finding 20: Sampled CSR-designated cases contained documentation of the services provided, as set forth in the **CSR Handbook (2008 Ed.), § 5.6.**⁶⁶ **However, due to the open**

⁶⁶ Compliance with this critical handbook section is also directly involved in the wider discussion in this report regarding the similarity of some services between the LRC and other LASOC units. Cases currently reported in the CSR that are found equal to permissible “legal information” services provided by the LRC, cannot be reported as a

questions regarding whether certain services are in fact “legal advice” or “legal information” some of the reported cases might not be a legal service but rather the provision of “legal information”.

LSC regulations specifically define “case” as a form of program service in which the recipient provides legal assistance. *See* 45 CFR §§ 1620.2(a) and 1635.2(a).

LSC recipients are required to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information is required to describe the level of service provided. *See* CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

Almost all of the cases sampled contained sufficient evidence of the services rendered to the client, and the limited exceptions were insignificant.⁶⁷ However, depending on the outcome of the division of legal information versus legal advice discussed elsewhere in this report, certain cases currently reported as a CSR may amount only to the provision of legal information, and therefore would not be included in the CSR.⁶⁸

Finding 21: Sampled CSR-designated cases evidenced that LASOC’s application of the CSR case closure categories were substantially accurate with Chapters VIII and IX, CSR Handbook (2008 Ed.). However, there were several instances in which the closing code “B” (Limited Service) was used in which the level of service clearly reached “L” (Extended Service).

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1.

Sampled files reviewed demonstrated that LASOC’s application of the CSR case closing categories is substantially accurate Chapters VIII and IX, CSR Handbook (2008 Ed.) with the exception of a pattern of some “B” closures that should be “L”.⁶⁹ In several staff cases, the

CSR case as they will contain no legal advice. On the flip-side of this, legal advice provided by the LRC must be part of a fully screened case in which the legal advice provided is documented. It is expected that these issues will be fully addressed by the more clearly defined line between what constitutes legal advice versus legal information and other additional corrective action necessary for LASOC.

⁶⁷ *See* Santa Ana Closed 2008 Case No. 08E469213 and Compton Closed 2008 Case No. 08E475171.

⁶⁸ In particular, see the discussions regarding certain LASOC “B” level clinic cases, *supra*.

⁶⁹ While several cases were identified that should have been closed as an “L” when “B” was used, there was only one sampled case in which the opposite was true – that is the program used “L” instead of “B” (with “B” being the correct code). This involved a clinic bankruptcy case in which the client only attended the clinic portion of the program at which they only obtained assistance in completing the paperwork. The client did not return for a one-on-one review with the private attorney. The case was mistakenly closed with an L code when a B is appropriate. (The program routinely and correctly closes cases in which the client attends only the clinic portion with a B closing code, and this case appears to be a simple error). *See* Bankruptcy Clinic Closed 2008 Case No. 07E423304.

program selected closing code B when the level of service clearly went beyond limited service, with the most accurate closing code should have been as an extended service, category “L”.⁷⁰

It is also noted, as discussed in Finding One *supra* that the “B” level of some clinic cases may be only “legal information”, rather than legal services at the “B” level.⁷¹ For clients who attend clinics but obtain no further service, LASOC will report the case closed as a “B”, and as a PAI case if a private attorney ran the clinic.⁷²

A different, and simpler, pattern was identified at JIE, a PAI subcontractor, in which cases that did first receive a clear level of “B” service then went on to be clearly at the “L” level of service, were closed incorrectly as “B”. In JIE Closed 2009 Case No. 08E444813, closing code “B” was used, when “L” is most accurate. Although only one such JIE case was identified in the case sample, interviews indicated that all similarly situated cases involving the development of Individual Education Plans and subsequent monitoring have been undercounted as Bs when the extensive work that was done should be closed with “L”.

Outside of the above noted patterns involving “B” and “L”, there were only a few isolated examples of other CSR coding choice errors, none of which amounted to any pattern. However, LASOC is reminded that when using the category “H”, “administrative agency decision”, that the file must evidence an appropriate agency decision.⁷³ Also, there were two (2) PLC cases with incorrect closing codes.⁷⁴

For both JIE and PLC who are subcontractors, LASOC can provide some additional training on closing codes, as needed and as part of standard oversight conducted by LASOC for their PAI-related work. In particular, LASOC should ensure that JIE staff properly use the closing code representative of the highest level of service provided to the client.⁷⁵

⁷⁰ For example, *see* Compton Closed 2008 Cases Nos. 05E257177 and 07E434081.

⁷¹ Unrelated to the current discussion on proper case code closing, and as discussed in Finding One, the “B” level/paperwork assistance provided in clinics may be “legal information” only, and therefore these cases are not appropriate as closed as a “B”. The actions, statements, and level of assistance conducted by LASOC casehandlers as part of any “B” level case closure in any “case reporting” clinic must be clearly distinguished between “legal advice” and “legal information”. LASOC, and LSC, will need to ensure that the services provided in part one of this bankruptcy clinic are not identical or similar to services provided by the LRC. If they are, a decision will be necessary regarding whether the current “B” level of the bankruptcy clinic no longer should be considered a case as it may only involve legal information, or whether the actions taken by the LRC when assisting someone complete paperwork will need to be amended or changed so as to not equal the provision of legal services.

⁷² For example, *see* Bankruptcy Clinic Closed 2008 Case No. 07E423304. In this case the program reported it as a “B” level and as a PAI case as it believed the client had come to the clinic. Case sampling evidenced that this client had not in fact come to the clinic, so the case should have been reported as a staff “A” level hotline case. *See* Hotline Closed 2009 Case No. 09E519497.

⁷³ *See* Compton Closed 2008 Case No. 08E454434 that closed as an “H”, but that contained no agency decision. As evidenced from the file, this case would more appropriately have been closed as an “L”. *Also see* PLC Closed 2008 Case No. 06100984, which was closed as an “H” where “L” is the appropriate code.

⁷⁴ *See* PLC Closed 2009 Case No. 081013938, which was closed as an “F” where “L” is the appropriate code. *Also see* PLC Closed 2008 Case No. 06100984, which was closed as an “H” where “L” is the appropriate code.

⁷⁵ Comments to the DR stated that LASOC has complied with this directive by meeting with both PLC and JIE staff to provide training on closing codes.

Finding 22: Sampled CSR-sampled staff cases evidenced compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 regarding the closing of cases in a timely manner. However, there were some significant dormancy issues evidenced regarding certain pro bono PAI cases.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, brief service, or a referral after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, brief service, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).⁷⁶ There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

The prior Final Report required LASOC to take corrective action with regard to dormant cases. CA-8 required LASOC to:

Undertake a review of all currently open cases to identify any dormant cases and close them in a manner that ensures that they will never be reported to LSC in any CSR. In addition, LASOC should institute a regularly scheduled case list review of its open case lists in all offices in order to ensure timely case closings. Further, LASOC should ascertain whether its CMS is contributing to the dormancy issue and, if so, implement any necessary improvements to generate accurate case statistics.

Also, CA-7 required LASOC to:

Task all managing attorneys to investigate whether any such computer glitches exist that prevent closure of open cases within their field office and bring them to the attention of management for permanent closure.

In its response to the prior Final Report, LASOC stated that it had implemented a new policy and practice to send open case lists to case handlers on a quarterly basis for required review. The success of this new method was tested through case review during the March 2010 visit.

⁷⁶ The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed.), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category “L” “Extensive Service”.

Sampled staff cases indicated that LASOC is in compliance regarding the requirements of CSR Handbook (2008 Ed.), § 3.3(a), as all sampled staff files were closed in a timely manner.

In addition to case sampling, a specialized open case list was required from LASOC. A list of all open/pending cases in which there were no staff time charges for six months or more was requested, reviewed, and discussed with LASOC management. The number of cases on the list was low, indicating that the program does not have extensive cases without some recent documented effort. In addition, discussions regarding types of cases appearing on the list indicated that several types of these cases were not dormant, but rather were appropriately open, and less active. The review of this list did not evidence any staff case dormancy issues.⁷⁷

Based on the above, LASOC has taken effective corrective action to address CA-8 regarding staff cases.

As discussed, *supra*, there are currently significant dormancy issues for several open PLC cases that have been referred to pro bono attorneys.

Finding 23: Sampled CSR-designated cases evidenced compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 in that it is not reporting duplicate cases to LSC. However, some limited underreporting of cases was noted.

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

When a recipient provides more than one type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.2 and CSR Handbook (2008 Ed.), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.3 and CSR

⁷⁷ LASOC management noted the potential usefulness of this “no time charges” open case list as another tool to search for potentially dormant cases in the future. It was pointed out to management that the list is most effective when use at least two times a year, with the second time being no later than early November, so that any potentially dormant cases can be addressed before year’s end. It was also pointed out that another advantage of such open-ended case inquiries is that any open case (and not just those correctly coded and assigned to current staff) will be identified. These types of lists can also identify some other potential problem or mistaken cases such as files coded/assigned to departed staff or cases not accepted that were mistakenly opened in the computer – such issues occur as a normal part of any active ongoing CMS, and when caught every six months, corrections can be made to truly active files before cases become outdated and unable to report to LSC under CSR Handbook rules.

Handbook (2008 Ed.), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.4 and CSR Handbook (2008 Ed.), § 6.4.

There were no duplicate case files noted in the review sample. It is noted that LASOC opens new cases each time a client calls with a problem, without regard to whether it is a duplicate at the time of intake. LASOC has also implemented procedures to eliminate duplicates prior to case reporting. At the end of each year, each case handler reviews a list of extended services closed cases that appear to be duplicates. However, as the bulk of the seemingly duplicate cases are limited assistance hotline cases, the Data Base Manager developed specialized code for the Matrix database that will also identify potential duplicates. As with any automated duplicate check system, at times cases may be removed that are not duplicates, and one such case was found in the case sample.⁷⁸ Nevertheless, due to LASOC's high level of computer capability it is recommended that the Data Base Manager review the automated duplicate check program to assess whether any changes to the automated check systems might be possible so as to avoid deselection of non-duplicative cases.

Directly related to the proper reporting of case numbers, case review and interviews at the new PAI subcontractor JIE evidenced that it has been underreporting its cases due to a simple misunderstanding of LSC rules. JIE had been tracking and reporting only one case per family even when unique services to more than one child was provided.⁷⁹ Due to the nature of JIE's targeted educational work, each of these efforts is a separate case under LSC rules. Brief training was provided to JIE by the team during the visit to their offices, and LASOC should follow-up with additional review of JIE cases and focused training for JIE as needed, to ensure clarity regarding LSC multiple case reporting rules.

Finding 24: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

LSC regulations prohibit recipients from expending grants funds or contributing personnel or equipment to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum. *See* 45 CFR Part 1608.

Sampled files reviewed evidenced no prohibited political activity.

⁷⁸ There was one affected case in the case review sample that was removed as a duplicate when it was actually an acceptable second case. *See* Santa Ana Closed 2009 Case No. 09E495554. The programs automated duplicates check system identified a duplicate case. The automated system correctly identified the case as having the same client and same problem code as another case. Both cases involved closing code "32", divorce – a legal subject area with traditionally a low probability of having multiple cases in one year. However, because the cases involved two different jurisdictions (the program's client had filed for divorce in one county and their spouse had filed in a different county), and assistance was provided in both cases, these could have been two (2) different CSR cases.

⁷⁹ Although only one such case file was identified during case review in which three children were receiving assistance, but only one case opened (*see* JIE Open Case No. 08E449820). JIE staff explained that it has been their standard procedure to count work for one family as one case. Other specific case files were then discussed with JIE that are also being undercounted.

Finding 25: LASOC is in general compliance with the requirements of 45 CFR Part 1635.

The timekeeping requirement, 45 CFR Part 1635 is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are by definition, for cases, matters, or supporting activities. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent. The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

LASOC has a written Timekeeping Requirement Policy, the stated purpose of which is to implement 45 CFR Part 1635. It should be noted while the policy does not include the requirement that time expended by attorneys and paralegals regarding cases, matters and supporting activities be maintained in units not greater than quarter hour increments, LASOC's self developed "Matrix" case and time reporting system does require that entries conform to this regulatory standard.⁸⁰

The LASOC Personnel Manual establishes guidelines for time reporting for payroll purposes, which is a separate manual (paper) system. Every two weeks, employees must complete an Employee Time Report that reflects work hours (segregated by some limited funding codes including PAI), vacation, sick, and/ or unpaid time. This report is used to generate the data submitted to ADP Payroll Services for payroll processing. The LASOC Accounting Manual Chapter II-C, Compensation, defines the payroll process for the Personnel Status Sheet (Officially signals, hiring and termination) and Employee Time Reports upon which employee pay processing is based and which is the initiating basis for posting of payroll expense. Inasmuch as the program has recently changed accounting software to a fund-based program

⁸⁰ The Matrix Time reporting screen requires time to be entered in quarter hour increments. The calendar is color-coded showing red for a date with no entries, yellow for a date with partial entries and green for days that reflect a complete hourly requirement. The system also allows for one-click selection of any assigned case, matter or activity.

(Sage MIP) and altered several fiscal documents, the Director of Operations is in the process of revising the appropriate Manual segments.

LASOC is somewhat distinguished in that it has high-level database and programming expertise among many staff. As discussed above, while timekeeping for case and time management is maintained in an on-line Matrix system, the payroll system is a separate manual (paper) system. As such, staff members are required to maintain dual reporting activities. Such a dual system can increase the opportunity for error. As such, it is recommended that LASOC consider an update or expansion within the on-line Matrix system so as to include the functions required for payroll purposes. The primary additional functions necessary would be to allow posting of data now required for the payroll system, with ability for an on-line supervisory approval. Then, the automated system must allow report generation or export of data suitable for submission or importation into a payroll accounting system to be exported to a payroll service company. As part of this, LASOC could explore the options available in commercial software related to the current accounting software as a base for incorporation into Matrix or as a replacement system.

LASOC's Data Base Manager has created a timekeeping program for LASOC which interfaces with its Matrix CMS that allows case handlers to count blocks of time in quarter hour increments. The system appears to work well with one minor exception. The exception involves any time on cases that is less than 15 minutes, or when two different cases are given 7.5 minutes each in the same 15 minute period, the system only allows for a casehandler to either charge all 15 minutes to one of the two cases or to incorrectly charge two 15 minute periods, thus overstating the time worked.

This issue may mainly or only affect supervisory case oversight time,⁸¹ but nonetheless needs to be addressed. 45 CFR § 1635.3 requires that the timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. When a case has received some attorney time, but there is no corresponding time charge, it would not be possible to use the automated timekeeping system for aggregate data for that case.⁸² This issue was discussed with LASOC management during the review. Management represented that the 15 minute segment of time is linked into several grants and would be difficult to change. In light of LASOC's high level of computer capability, the program should therefore somehow address this issue. The program could consider the creation of a 7.5 time increment for the Director of Litigation (and maybe for any other supervisors or managers who conduct efficient oversight of cases and who needs a lower time increment). In this way, the 15 minutes basic unit can remain, while allowing certain people to charge two 7.5 increments in one 15 minute segment.

⁸¹ This issue was self-identified by LASOC management as part of the review of the specialized case list involving all cases with no time charges for six months or more. Some of the cases on that list had been given supervisory or monitoring attention by the Director of Litigation within the last six months, but because she was able to review more than one separate case in any 15 minute period, she would charge a 15 minute period to only one case. Thus, the other case would not appear to have been inactive via timekeeping.

⁸² This is important for cases identified in which LASOC needs or wishes to allocate the case fully to a certain grant. The ability to charge all time on the case to a specific grant is particularly necessary when a case is identified as LSC-ineligible and must not be allocated to LSC funds.

Finding 26: Sampled CSR-designated staff and PAI cases, and review of certain payment arrangements done through the program's LRS, evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees) and 45 CFR Part 1609 (Fee-generating cases).

Except as provided by LSC regulations, recipients may not provide legal assistance in any case which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably might be expected to result in a fee for legal services from an award to the client, from public funds or from the opposing party. *See* 45 CFR §§ 1609.2(a) and 1609.3.

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

LSC has also prescribed certain specific recordkeeping requirements and forms for fee-generating cases. The recordkeeping requirements are mandatory. *See* LSC Memorandum to All Program Directors (December 8, 1997).

Also, until recently, under 45 CFR Part 1642, LSC recipients were prohibited from claiming, collecting, or retaining attorneys' fees in any case undertaken on behalf of a client of the recipient, except as permitted by 45 CFR § 1642.4. The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a). To "claim" attorney fees was defined as including a request for attorney fees in any pleading.

No staff or PAI case sampled staff files sampled contained a prayer for attorney fees. Further, examination of the LASOC fiscal records including the Chart of Accounts, General Ledger for FYE 1-31-2008 and 1-31-2009 (periods for which enforcement is actionable in whole or in part under Program Letter 10-1) and discussions with LASOC fiscal staff disclosed no instances in which the Program solicited or received attorney fees from a staff or PAI case, as defined in 45 CFR Parts 1609 and 1642.

It is also noted that LASOC does receive several independent payments from participating LRS attorneys that may include percentages of fees earned. However, these were not designated as including possible attorney fees in the LASOC fiscal records, but rather were designated as "referral fees". The applicability of 45 CFR Part 1642 to the lawyer referral service contractual arrangements was reviewed during the March 2010 review. LASOC, through the LRC, has contractual provisions regarding cases referred to private attorneys that the attorney must return a

percentage of fees obtained to LASOC/LRC. These payments are described as “referral fees”, and provisions regarding these payments are summarized in Article X of the *Rules of Operation and Procedure for Lawyers Referral Service of the Legal Aid Society of Orange County*. LASOC requires a \$100.00 annual membership fee for each lawyer participant in its Lawyer Referral Service panel. The Lawyer Referral Service Agreement contains a fee sharing agreement with its attorneys whereby each attorney is required to remit to LASOC 15% of the total fees billed for each case up to \$3,000.00 and 20% of total fees billed for any amounts over \$3,001.00. Although the Lawyers Referral Service operated by LASOC does not specifically provide for fee sharing in contingent fee cases, there is no prohibition against such an arrangement in the agreement. A literal reading of the agreement requires the attorney participant to share all fees with LASOC. Other than the \$100.00 annual membership fee, all proceeds received by LASOC through its Lawyer Referral Services come from fees paid to attorneys participating in the program.

Limited examination of the financial records for the last audited period (FYE 1-31-2009) found that LASOC received and recorded as revenue \$7,700 in LRS “Membership Dues” (reflecting 77 attorneys who signed-up paying \$100 each to accept referred cases) and \$94,059.24 in LRS “Referral Fees”, i.e. percentages paid from attorney fees obtained by the private attorneys. A sampling of the referral fees found that they were deposited to Account 412-717 (Referral Fees) and consisted of checks of varying amounts, some being in the several thousands of dollars.⁸³

LSC’s review has concluded that the receipt of these fees did not raise any compliance issues with 45 CFR Part 1642, as the program is operating under a lawyer referral service framework and is not directly involved in the litigation.

Finding 27: Sampled CSR-designated cases reviewed and review of other program materials evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

None of the sampled files and documents reviewed, including program activity reports, evidenced any lobbying or other prohibited activities.

⁸³ The LASOC Consolidated Report reflected that in FYE 1-31-2008 that it received \$7,800 in Lawyer Referral Service Membership Dues and \$133,432.68 in Referral Fees. Also, the audited figures for FYE 1-31-2009 indicated under account “12-Misc LRS Fees” that LASOC earned \$94,059 in referral fees.

Finding 28: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Nor may recipients provide legal assistance in an action in the nature of a habeas corpus seeking to collaterally attack a criminal conviction. *See* 45 CFR § 1615.1.

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction.

Finding 29: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).⁸⁴

None of the sampled files reviewed involved initiation or participation in a class action.

Finding 30: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Recipients may not make available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting. *See* 45 CFR § 1632.3.

None of the sampled files reviewed revealed participation in litigation related to redistricting.

Finding 31: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Recipients are prohibited from defending any person in a proceeding to evict the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and

⁸⁴ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

None of the sampled files reviewed involved defense of any such eviction proceeding.

Finding 32: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant; nor may a recipient participate on behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person.

Finding 33: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction that prohibited LSC recipients and their staff from engaging a client that it solicited.⁸⁵ This restriction has been contained in all subsequent appropriations acts.⁸⁶ This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

None of the sampled files indicated any compliance issues with 45 CFR Part 1638. Further, program materials reviewed, such as community education materials and other program literature indicated any activities that could be considered as involving solicitation under the regulation.

Finding 34: Sampled CSR-designated cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No may LSC funds be used to bring suit to assert, or

⁸⁵ *See* Section 504(a)(18).

⁸⁶ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled files reviewed involved such activity.

Finding 35: Sampled CSR-designated cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in any litigation with respect to abortion.

Section 1007(b) (9) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

Section 1007(b) (10) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Interviews also indicated that LASOC has not been engaged in any litigation that would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

IV. RECOMMENDATIONS⁸⁷

Consistent with the findings of this report, it is recommended that LASOC:

1. Consider creative methods of increasing the involvement of private attorneys in the specialized work of JIE.

⁸⁷ Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

By contrast, the items listed in “Required Corrective Actions” must be addressed by the program, and will be enforced by LSC.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, LASOC is required to take the following corrective actions:

1. As discussed in detail in this report, *supra*, LASOC will need to continue the corrective action and efforts to ensure clear lines of what constitutes “legal advice” and can therefore only be provided to screened, eligible clients from what is only “legal information” that can be provided to any customer of the LRC or otherwise to unscreened persons. As part of this, LASOC should prepare, in coordination with LSC, a detailed “training document” that will provide clear guidance for staff regarding how certain services (that are close or similar between LRC and other LSC service units) will be distinguished between legal advice and legal information. Staff training will then be necessary to ensure implementation of the correct separation of legal advice and legal information;

Comments to the DR explained that ongoing training of the relevant LASOC staff has been, and is being conducted to address the above. Further, LASOC discussed its plans to create a focused and in depth training to ensure that the advice given in CSR cases complies with the definition of legal assistance in the CSR and that the legal information given to a LRC customer complies with the definition of legal information. Further, LASOC listed several relevant authorities for its guidance and training including LSC’s CSR Handbook, the ABA Standards for the Provision of Civil Legal Aid and the Resource Guide for Court Clerks prepared by the Judicial Council of California, Administrative Office of the Courts.

Comments also explained the distinction in services provided at the LASOC Family Law Clinics and the LRC. Comments explained that the LASOC Family Law Clinics provide legal assistance to clients from filing the Petition for Dissolution of Marriage through Judgment. Comments stated that the attorney responsible for the case or a paralegal acting under the supervision of the attorney meets with the client and provides advice specific to the client’s legal issues at a number of appointments including preparation of the initial petition, financial disclosure documents and the Judgment and prepares the client for the court appearance. Comments added that clients are advised about their options regarding custody, visitation, and division of property.

2. Implement the requirements of LSC Advisory Opinion #AO-2009-1004 and do not include cases handled by the full time staff attorneys of PAI subcontractor organizations as PAI;

Comments to the DR stated that LASOC would comply with LSC Advisory Opinion #AO-2009-1004 and no longer include cases handled by full time staff attorneys of subcontractor organizations as PAI cases.

3. Ensure future compliance with LSC External Opinion # EX-2008-1001 regarding the types of activities that can be charged to PAI,⁸⁸

Comments to the DR stated that LASOC will comply with External Opinion #EX-2008-1001 regarding the types of activities that can be charged to PAI.

Comments also stated that as part of its compliance efforts in this regard that LASOC has undertaken a review of all of its PAI activities and determined that only activities involving legal assistance to eligible clients are being allocated to PAI.

4. Complete the corrective action required by the previous report and cease its three-month allocation system of estimated PAI staff time. All case handler time attributed to PAI should be done, as required, based on actual time sheets;

Comments to the DR stated that LASOC will comply with this directive and that all casehandler time attributed to PAI is being based on actual time sheets.

5. Cease the allocation of estimated administrative staff time towards the PAI 12.5% allocation;

Comments to the DR stated that LASOC would cease the allocation of estimated administrative staff time towards the PAI 12.5% calculation.

6. Take targeted corrective action to review all open PLC cases to determine whether the case is fully dormant or not, and whether additional case follow-up is necessary. When closing currently open PLC cases that are significantly dormant, the files should be closed in a manner that deselects them from reporting to LSC in a future CSR. Further, currently open PLC cases that fail to have a proper form of an executed citizenship attestation should also be deselected from CSR reporting. Finally, consistent with AO-2009-1004, ensure that cases designated as an LSC PAI case have the involvement of a private attorney;

Comments to the DR stated that LASOC gave PLC a copy of the DR and later met with PLC to discuss the issue of dormancy. Comments also stated that prior to meeting PLC had conducted a review of all open cases and closed dormant cases in a manner that would deselect the appropriate cases from future CSR reporting. Finally, LASOC agreed to ensure that all cases designated as an LSC PAI case has the involvement of a private attorney, as set forth in AO-2009-1004.

7. Ensure that PLC implements an ongoing case oversight and follow-up system for open PAI cases so as to comply with 45 CFR § 1614.3(d)(3);

Comments to the DR accepted this finding and explained that they met with PLC to ensure improvements to the system. Further, LASOC comments stated that it

⁸⁸ No further current corrective action regarding this item is necessary, as LASOC fiscal staff took immediate corrective action during the review in response to this issue.

will expand its oversight system to include a semi-annual review of a random sample of PLC's open cases to ensure that PLC's follow-up system on cases referred to private attorneys is effective.

8. Conduct additional oversight and training, as needed, to ensure that PAI subcontractor cases are closed with proper LSC closing codes and in particular ensure that JIE cases with extensive work are properly closed with a higher level closing code;

Comments to the DR stated that LASOC has complied with this directive by meeting with both PLC and JIE staff to provide training on closing codes.

9. Conduct additional oversight and training, as needed, with JIE to ensure that multiple cases are reported when different cases within the same family are handled and that cases designated as an LSC PAI case have the involvement of a private attorney;

Comments to the DR stated that LASOC has complied with this directive by meeting with both PLC and JIE staff to provide training on closing codes and related issues. LASOC comments also stated that training and attention has been given to ensuring that cases designated as an LSC PAI case have the involvement of a private attorney.

10. Record additional detail regarding the nature and general amount of fixed debts when using the "fixed debt" factor for clients whose income is between 125-200% of FPG; and

Comments to the DR stated that LASOC's Matrix case management system is being revised to record the additional fixed debts data, as recommended and so as to ensure that sufficient detail regarding "fixed debts" is recorded for clients whose income is between 125-200% of FPG..

11. Provide additional detail regarding the insurance maintained by LASOC for LRC including whether the insurance covers attorney malpractice for legal advice or legal services.

Comments to the DR set forth in detail the types of insurance maintained by LASOC. Comments explained that as the LRC also conducts Lawyer Referral Service (LRS) activity that as a State Bar certified LRS it is exempt from liability for referrals it makes. Comments also stated that LASOC maintains Association Errors and Omissions Liability coverage through the Lawyer's Mutual Insurance Company for its LRS. Comments added that as the LRC is managed by an attorney, that LASOC maintains Professional Liability coverage through the NLADA Insurance Program, and that LASOC's coverage includes: lawyers professional liability; management liability errors and omissions endorsement; employment practices coverage; punitive damages endorsement; and criminal defense endorsement. LASOC also maintains General Liability coverage, Abuse and Molestation Liability coverage, Fiduciary Liability coverage, Cyber Liability coverage, and Workers Compensation coverage.

Comments to the DR reiterated LASOC's position that the LRC only provides legal information to the general public and does not provide legal advice or legal services. Comments also added that all panel members of LASOC's LRS are required to maintain their own Professional Liability Insurance coverage, have active membership with the State Bar, and submit their application with the LRS panel dues.



LEGAL AID SOCIETY OF ORANGE COUNTY

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(714) 571-5200 • FAX (714) 571-5270

November 1, 2010

VIA EMAIL and US MAIL

Danilo A. Cardona, Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K. Street, NW 3rd Floor
Washington, DC 20007-3522
Email: cardonad@lsc.gov

RE: Response to Follow-Up Review Draft Report, Recipient No. 805310

Dear Mr. Cardona:

Enclosed is the Legal Aid Society of Orange County's (LASOC) response to the Legal Services Corporation's (LSC) Draft Report for the March 1 – 5th, 2010 on-site Follow-up-Review ("FUR") of LASOC.

The comments are directed to the Required Corrective Acting Findings 1-11 (pp. 53-54).

If you have any questions, please feel free to contact me at (714) 571-5233 or email to bcohen@legal-aid.com.

Sincerely,

Robert J. Cohen
Executive Director

Enclosures

Corrective Actions From Compliance Team and Legal Aid Society of Orange County Actions

- 1. As discussed in detail in this report, supra, LASOC will need to continue the corrective action and efforts to ensure clear lines of what constitutes "legal advice" and can therefore only be provided to screened, eligible clients from what is only "Legal information" that can be provided to any customer of the LRC or otherwise to unscreened persons. As part of this, LASOC should prepare, in coordination with LSC, a detailed "training document" that will provide clear guidance for staff regarding how certain services (that are close or similar between LRC and other LSC service units) will be distinguished between legal advice and legal information. Staff training will then be necessary to ensure implementation of the correct separation of legal advice and legal information;*

LASOC Response

LASOC provides ongoing training to all Hotline staff to ensure that advice specific to the client's legal problem is given to the client and noted on the intake. In addition Legal Resolutions Center staff receives ongoing training to ensure that only legal information is given to customers. LASOC staff will develop a focused and in depth training to ensure that the advice given in closed cases complies with the definition of legal assistance in the CSR Handbook and that legal information given to a customer in the Legal Resolutions Center complies with the definition of legal information in the CSR Handbook. The training for LASOC and its LRC staff will be ongoing and available online.

The training materials will include the CSR Handbook, the ABA Standards for the Provision of Civil Legal Aid and the Resource Guide for Court Clerks prepared by the Judicial Council of California, Administrative Office of the Courts. LASOC staff will consult with other legal services offices that both operate self help centers in Superior Courts in California and provide legal assistance to clients on best practices and protocols. The training materials will be sent to LSC staff for review and comment.

There is a clear distinction between the services provided at the LASOC Family Law Clinics and the LRC. The LASOC Family Law Clinics provide legal assistance to clients from filing the Petition for Dissolution of Marriage through Judgment. The attorney responsible for the case or a paralegal acting under the supervision of the attorney meets with the client and provides advice specific to the client's legal issues at a number of appointments including preparation of the initial petition, financial disclosure documents and the Judgment and prepares the client for the court appearance. Clients are advised about their options regarding custody, visitation, and division of property.

Because of funding cuts, presently the Legal Resolutions Center is no longer able to help customers with I-CAN! legal forms and is not conducting any workshops. At the LRC, customers with Family Law issues were only helped to navigate through I-CAN! legal forms. They were not given any legal advice nor were they given the extensive standardized texts given to clients calling the Hotline.

- 2. Implement the requirements of LSC Advisory Opinion #AO-2009-1004 and do not include cases handled by the full time staff attorneys of PAI subcontractor organizations as PAI;*

LASOC Response

LASOC will comply with LSC Advisory Opinion #AO-2009-1004 and no longer include cases handled by full time staff attorneys of subcontractor organizations as PAI. However, as suggested in the report, when attempts to refer a case to a pro bono attorney or private attorney are made, LASOC will allocate the associated costs of the attempted referral to PAI.

- 3. Ensure future compliance with LSC External Opinion #EX-2008-1001 regarding the types of activities that can be charged to PAI;*

LASOC Response

LASOC will comply with LSC External Opinion #EX-2008-1001 regarding the types of activities that can be charged to PAI. In its effort to comply, LASOC has undertaken a review of all of its PAI activities and has determined that only activities involving legal assistance to eligible clients is being allocated to PAI.

- 4. Complete the corrective action required by the previous report and cease its three-month allocation system of estimated PAI staff time. All case handler time attributed to PAI should be done, as required, based on actual time sheets;*

LASOC Response

LASOC will comply with this directive. All cases handler time attributed to PAI is based on actual time sheets.

- 5. Cease the allocation of estimated administrative staff time towards the PAI 12.5% allocation;*

LASOC Response

As recommended in the report, all administrative and manager time will be captured by the standard overall allocation of common costs to PAI.

- 6. Take targeted corrective action to review all open PLC cases to determine whether the case is fully dormant or not, and whether additional case follow-up is necessary. When closing currently open PLC cases that are significantly dormant, the files should be closed in a manner that deselects them from reporting to LSC in a future CSR. Further, currently open PLC cases that fail to have a proper form of an executed citizenship attestation should also be deselected from CSR reporting.*

Finally, consistent with AO-2009-1004, ensure that cases designated as an LSC PAI case have the involvement of a private attorney;

LASOC Response

LASOC gave PLC a copy of this report and later met with PLC to discuss the issue of dormancy. Prior to the meeting, PLC had conducted a review of all open cases and closed dormant cases in a manner that would deselect the appropriate cases from future CSR reporting. In addition, LASOC will expand its oversight system to include a semi-annual review of a random sample of PLC's open cases to ensure that PLC's follow-up system on cases referred to private attorneys is effective.

PLC has adopted LASOC'S Citizenship Attestation form. Any closed cases not having this form will be deselected from the CSR reporting.

As reported in response 2 above, LASOC will comply with AO-2009-1004 to ensure that only those cases that have the involvement of a private attorney will be allocated to PAI.

7. *Ensure that PLC implements an ongoing case oversight and follow-up system for open PAI cases so as to comply with 45 CFR Section 1614.3(d)(3);*

LASOC Response

LASOC will conduct semi-annual reviews of PLC'S oversight and follow-up system to ensure that it is effective. Changes to the systems will be recommended, if appropriate.

8. *Conduct additional oversight and training, as needed, to ensure that PAI subcontractor cases are closed with proper LSC closing codes and in particular ensure that JIE cases with extensive work are properly closed with a higher level closing code;*

LASOC Response

LASOC has complied with this directive by meeting with PLC and JIE staff to provide training on closing codes.

9. *Conduct additional oversight and training, as needed, with JIE to ensure that multiple cases are reported when different cases within the same family are handled and that cases designated as an LSC PAI case have the involvement of a private attorney;*

LASOC Response

LASOC has complied with this directive by meeting with JIE Staff.

- 10. Record additional detail regarding the nature and general amount of fixed debts when using the "fixed debt" factor for clients whose income is between 125-200% of FPG;*

LASOC Response

LASOC's Matrix case management system is being revised to record the additional fixed debts data, as recommended.

- 11. Provide additional detail regarding the insurance maintained by LASOC for LRC including whether the insurance covers attorney malpractice for legal advice or legal services.*

LASOC Response

The Legal Resolutions Center (LRC) only provides legal information to the general public. The LRC itself does not provide legal advice or legal services. If this comment refers to any Lawyer Referral Service (LRS) activity, it should first be noted that as a State Bar certified LRS it is exempt from liability for referrals it makes. In addition, LASOC maintains Association Errors and Omissions Liability coverage through the Lawyers' Mutual Insurance Company for its Lawyers Referral Service (LRS). All panel members of LASOC's LRS are required to maintain their own Professional Liability Insurance coverage, have active membership with the State Bar, and submit their application with the LRS panel dues. The LRC is managed by an attorney, and as such, LASOC maintains Professional Liability coverage through the NLADA Insurance Program. LASOC's Professional Liability package covers lawyers professional liability, management liability errors and omissions endorsement, employment practices coverage, punitive damages endorsement, and criminal defense endorsement. LASOC also maintains General Liability coverage, Abuse and Molestation Liability coverage, Fiduciary Liability coverage, Cyber Liability coverage, and Workers Compensation coverage.