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## **DEADLINE NEARS FOR LEGAL SERVICES CORP.**

Congressional failure to schedule before adjournment a confirmation vote for all nine of Ronald Reagan's nominees to the Board of Directors of the Legal Services Corporation will mean "business as usual" at Legal Services, the government-funded public corporation that administers civil legal aid for the poor.

Eight of the existing Board members are presidential recess appointments made in December 1981. The Constitution requires that recess appointments (appointments made when Congress is not in session) expire at the end of the congressional session, unless they are approved by the Senate. If the Senate fails to act on these appointments, the Corporation will be left with only one functioning Board member--Mrs. Josephine Worthy, a Carter holdover.

Senate Democrats, however, have declined to enter into a time agreement for consideration of the nominations by the entire Senate, thus perverting the traditional "advice and consent" function of the Senate regarding presidential nominations. When the Senate adjourns sine die these appointments will expire.

The nine presidential nominees awaiting a confirmation vote are William Harvey, William Olson, Robert Stubbs, Annie Slaughter, Harold de Mosse, Clarence McKee, Howard Dana, George Paras and William Earle. Eight of these nominees were voted favorably out of the Senate Labor and Human Resources Committee on July 15. A Committee vote on the recess appointment of George Paras was deferred at the White House's request.

Failure to schedule a confirmation vote will preclude Board nominees from taking effective control of the Corporation and its grantmaking activities. Intense congressional concern over the operations of the Legal Services Corporation is illustrated by the rider to appropriations bill H.R. 6957, restricting lobbying and other activities by Legal Services lawyers. Should the Corporation have to function with a one-member Board of Directors, serious oversight of the local programs and staff will be extremely difficult.

Sensing the possibility that a confirmation vote will not take place, Corporation staff have seized the opportunity to protect their pet local programs by speeding up the grant alloca-

tion process. On September 15, Acting President Gerald Caplan announced his resignation, effective September 27. Furthermore, he proposed to delegate all of his presidential authority to Clint Lyons, former Director of the Office of Field Services. This transfer would include the power to make grants and enter into contracts for local programs. This would permit Lyons, an old legal services hand, to commit 1983 funds to programs immediately after passage of H.R. 6957, or the Continuing Resolution now before Congress. The resolution calls for an appropriation in fiscal 1983 of \$241 million to the Legal Services Corporation. A number of Board members, including Chairman William Harvey, view Caplan's purported delegation as remarkably inappropriate, if not unauthorized under the Corporation's by-laws. The ultimate resolution of these maneuvers remains in doubt. Nonetheless, once the Corporation formally enters into these grants, control of local program activities probably will be lost for yet another year.

The confirmation crisis is aggravated by laggard White House action in filling the outstanding vacancy on the Board--a position previously held by Marc Sandstrom, a recess appointee who withdrew in May. Administration and Senate inaction is also responsible for the presence of the remaining Carter holdover, Josephine Worthy. Her term expired almost two years ago but she will continue to serve until replaced by a Reagan nominee.

A speedy vote on confirmation is needed to ensure that a full Board is in place to govern the Corporation before the 1983 funds are committed. The appointment of the new Board members will also strengthen the hand of concerned citizens trying to prevent "business as usual" within the Legal Services Corporation. Time is of the essence.

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For further reading:

- 1 Samuel J. Brakel, "Legal Services for the Poor in the Reagan Years," American Bar Association Journal, vol. 68, July 1982, pp. 820-822.
- 2 Marshall Breger, "Legal Aid for the Poor: A Conceptual Analysis," North Carolina Law Review, vol. 60, January 1982, pp. 282-363.
- 3 Jerry Flint, "Friends in Court," Forbes, December 21, 1981, p. 34.
- 4 Neal R. Peirce and Carol Steinbach, "Some Friends in High Places May Save Legal Aid for Poor from Extinction," National Journal, June 6, 1981, p. 25.