



Office of Inspector General
Legal Services Corporation

3333 K Street, NW, 3rd Floor
Washington, DC 20007-3558
202.295.1660
www.oig.lsc.gov

FRAUD ALERT

23-0068-A-FA

TO: Executive Directors

FROM: Roxanne Caruso
Acting Inspector General *Roxanne Caruso*

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SUBJECT: Diversion of Clients for Legal Services

Background

This Fraud Alert focuses on a recent prosecution by a county District Attorney's Office of two former grantee paralegals who diverted clients facing foreclosure. This article also discusses other OIG investigations into diversion of clients for legal services as well as best practices for prevention and detection. Client diversion occurs when a grantee employee, contractor, or volunteer diverts clients seeking free legal assistance from the grantee to themselves or an associate for personal profit. Perpetrators involved in these client diversion schemes often provide clients with false and misleading information about grantee services and client eligibility.

Diversion by Grantee Paralegals

A paralegal working for a grantee (Paralegal 1), who was also a certified housing counselor, targeted clients during the office intake process and at community outreach events. The targeted clients sought legal assistance from the grantee for mortgage loan modifications due to pending foreclosures. Paralegal 1 provided the client with misleading information that a loan modification would not be approved unless the client also filed a temporary restraining order (TRO) against the bank. Paralegal 1 represented to the client that the grantee could not assist them with filing a TRO, but they could refer the client to a favored private attorney for a \$5,000 fee or to a preferred paralegal for a reduced fee in order to file the TRO. Many clients agreed to pay the reduced fee to the preferred paralegal (Paralegal 2), a former employee of the same grantee.

In order to provide the client's information to Paralegal 2 in furtherance of the client diversion scheme, Paralegal 1 acted as an insider threat to the grantee. After the clients left the grantee office or the outreach location, Paralegal 2 would access the grantee's case management system (CMS) and use confidential client information, such as their contact and case information, to call the victims and solicit payment for legal services. Paralegal 2 was able to do this by using Paralegal 1's grantee CMS login and password. Paralegal 1 would also email Paralegal 2 client information located in the CMS using her personal email.

Paralegal 2 often met with the clients at their homes and charged them an upfront fee between \$2,000 and \$3,000 for the TRO. The two paralegals did not file the TROs and split the fees they received from the clients. In total, approximately 40 clients were diverted from the grantee with losses totaling more than \$60,000.

The paralegals were charged with several counts of grand theft, burglary, and unauthorized practice of law. The two defendants were sentenced to one year of incarceration and ordered to make restitution to the victims.

Additional Client Diversion Schemes

Since 2016, the OIG has investigated multiple cases involving the diversion of clients. In some instances, the clients were eligible for free legal services, but the grantee employee wrongly informed them that the grantee could not handle their case. In these case examples, the client was either assisted by the employee through their unauthorized law practice or was referred to a preferred private attorney or paralegal. In other instances, the clients were not eligible for free legal assistance and were diverted by the employee to a known associate. In each of these cases, the grantee employee received a kickback for diverting the client.

Preventing Client Diversion

Legal Services Corporation (LSC) Regulations 45 C.F.R. Part 1611, Client Eligibility, and 45 C.F.R. Part 1604, Outside Practice of Law, as well as requirements and best practices related to the CMS and outside employment, are relevant to the prevention of client diversion.

Part 1611, Financial Eligibility, and Chapter III of the LSC Case Service Report (CSR) Handbook, Case Management Systems, requires grantees to request and record sensitive client information, such as personally identifiable information (PII), financial

information, and information related to legal issues. Based on the need to record sensitive client information, grantees should adopt sufficient policies and oversight practices to ensure the security of client information from internal and external threats.

In several investigations, the OIG has found that grantee employees who have diverted clients also violated Part 1604, Outside Practice of Law, and/or the grantee's policy on permissible outside employment. Grantee policies related to the outside practice of law and outside employment should require the disclosure of all outside work and should prohibit employees from engaging in outside work that may constitute a conflict of interest with the grantee mission of providing free legal services to low-income clients.

In addition, the OIG has identified the following best practices to prevent the diversion of clients:

Segregation of Duties During Intake and Outreach

In an effort to hide potentially fraudulent activity, employees who have diverted clients often did not accurately record client information during office visits or during outreach events.

- Use a sign-in sheet in the reception area that requires clients and other visitors with appointments to identify themselves. The sign-in sheet should include the employee they are meeting with and the purpose of their visit. Case handlers should also be required to record all client meetings in the CMS. Periodic checks of the CMS system should be conducted to identify any discrepancies found in the sign-in sheet and the client intake process.
- Require more than one employee to attend outreach events and split duties among the employees for tracking and recording client intakes. In addition, staff should document their activities and the names of any individuals assisted or advised during outreach events.

Inform Clients of Any Required Fees

- Regularly inform clients that legal services are free. Post signage in the grantee lobby and/or in client meeting rooms indicating that legal services are free.
- Require staff to remind clients of grantee policies related to client fees and payments.
- If certain legal services require other fees such as filing fees to be paid by clients, inform the client upfront.

Client Intake Oversight

- Designate specific employees to conduct client intake and provide formal training and supervision for the client intake process. Staff who do not have formal permission or training to conduct intakes should be restricted from participating in the process.

- Adopt policies that inform staff where and under what circumstances ineligible clients should be referred to outside legal aid providers or private attorneys. Require staff to record where the client was referred to in the CMS and check staff referrals to ensure they do not violate policy.
- Ensure the grantee conflict of interest policy prohibits employees from referring clients to family and friends or for personal gain and require employees to disclose conflicts of interest promptly.
- Require employees to complete a certification for any conflicts of interest at least annually.
- Require managers to regularly oversee intake staffs' interactions with clients.

CMS Oversight

- Adopt cybersecurity policies that prevent and detect insider threat activities within the grantee network including the CMS. The policies should prohibit the use of personal devices when accessing the grantee network.
- Adopt a policy that prohibits staff from accessing client data for non-work purposes.
- Limit user access rights in the CMS. User access rights and user privileges within the CMS should be granted according to employee responsibility. Functions and modules outside of an employee's scope of responsibilities should be restricted accordingly.
- Ensure the CMS can produce an audit trail of staff activities by enabling the audit trail feature. Limit which employees have the ability to override these audit functions.
- Adopt a policy that prohibits the sharing of CMS logins and passwords.
- Regulate and monitor access to the CMS by volunteers and contractors.
- Put in place protocols to immediately restrict staff from accessing the grantee's network including restricting access to the CMS upon their departure from the grantee, whether the departure was voluntary or involuntary.

Detecting Client Diversion

Effective policies and oversight should aim to identify indicators of client diversion:

- Require staff to notify managers about client complaints that may indicate diversion such as individuals who report:
 - Being solicited for money by grantee staff.
 - Receiving assistance with a type of legal issue the grantee does not handle.
 - Being represented by the grantee but a subsequent search of the client's name in the CMS does not produce any results.
- Review staff audit trails in the CMS for unusual activities such as:
 - Accessing the CMS during non-business hours or from unknown IP addresses.
 - Accessing client PII or case information for clients that the employee is not assisting.
 - Unusual changes to or deletions of client information.

- Scrutinize any significant decrease in case numbers for specific case types. Typically, client diversion schemes target the same case type such as housing or immigration cases.
- Report to the OIG any information, including online information, which may indicate the unallowable outside practice of law by grantee attorneys or the unauthorized practice of law by grantee non-attorneys.

Our intent is to inform you of these practices to assist you in protecting your clients and your program funds from fraud, waste, and abuse. Reporting these matters to the OIG can further help protect grantee client and funds. We encourage you to distribute this fraud alert to your staff. In addition, we welcome requests for OIG training to increase awareness of potential fraud indicators at LSC programs.

Please see our links below to other relevant OIG resources:

[Fraud Corner – Best Practices for Preventing and Detecting Insider Threats](#)
[Fraud Alert – Unauthorized Outside Practice of Law](#)
[Fraud Alert – Outside Employment](#)
[Hotline Advisory – Outside Employment During Remote Work.](#)

I hope you find this Fraud Alert useful. Our Fraud Hotline telephone number is 800-678-8868; email hotline@oig.lsc.gov; fax 202-337-7155.

For any questions concerning this Fraud Alert, please contact Dan O'Rourke, Assistant Inspector General for Investigations, LSC OIG, telephone 202-295-1651; email dorourke@oig.lsc.gov.

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