

CASEWORK IN A CONGRESSIONAL OFFICE

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ABSTRACT

This paper presents a general overview of congressional office procedures associated with handling casework, and the assistance provided by a Member of Congress to help constituents in their dealings with Federal agencies. It discusses options for assisting Member's constituents, and the role of staff and Members in providing casework services.

CASEWORK IN A CONGRESSIONAL OFFICE

Casework can be defined as assistance provided by a Member of Congress to help constituents in their dealings with Federal agencies. Casework usually involves individuals or groups of individuals, but, in some instances may involve State or local governmental units, or, occasionally, a private organization. It is closely related to, but different from, grants and project work, which usually concerns local governmental units or other organizations (e.g., corporations, universities, and research firms) that are competing for money from the Federal Government in the form of contracts, grants, loans or other disbursements. Some congressional offices, however, combine these functions and call them "constituent services," or "case-project services."

CASEWORK: AN HISTORICAL FUNCTION

Members of Congress have always felt accountable to the people who elected them. Casework, or "constituent business" as it was sometimes called, was a very early function for Members of Congress, as noted in the diaries of John Quincy Adams and James K. Polk. Polk, for example, wrote of cases in which he provided assistance, including claims for pensions, land claims, writing letters for an appointment at West Point, and a search for a letter in a dead-letter office. ^{1/} These legislators did not have any staff to assist them;

^{1/} White, Leonard. *The Jacksonians*. New York, MacMillan, 1954. p. 144. See also James K. Polk and His Constituents, 1831-1832. *American Historical Review*, v. 28, 1922-23. p. 68-77.

that was to come later. Up until well into this century, legislators also had to depend solely upon reports from the executive agencies for information.

In addition, the first Article in the Bill of Rights provides that "Congress shall make no law . . . abridging the . . . right of the people . . . to petition the Government for a redress of grievances." In its first advisory opinion, the House Committee on Standards of Official Conduct concluded that the exercise of this right applies not only to petition by groups of citizens with common objectives, but also increasingly to people with problems or complaints involving their personal relationship with the Federal Government.

As the population has grown and as the Government has enlarged in scope and complexity, an increasing number of citizens find it more difficult to obtain redress by direct communication with administrative agencies. As a result, the individual turns increasingly to his most proximate connection with his Government, his representative in the Congress, as evidenced by the fact that congressional offices devote more time to constituent requests than to any other single duty.

The reasons individuals sometimes fail to find satisfaction from their petitions are varied. At the extremes, some grievances are simply imaginary rather than real, and some with merit are denied for lack of thorough administrative consideration

Another factor which may lead to petitioner dissatisfaction is the occasional failure of legislative language, or the administrative interpretation of it, to cover adequately all the merits the legislation intended. Specific cases arising under these conditions test the legislation and provide a valuable oversight disclosure to the Congress.

Further, because of the complexity of our vast federal structure, often a citizen simply does not know the appropriate office to petition.

For these, or similar reasons, it is logical and proper that the petitioner seek the assistance of his Congressman for an early and equitable resolution of his problem. 2/

2/ House Committee on Standards of Official Conduct. Advisory Opinion No. 1--On the Role of a Member of the House of Representatives in Communicating with Executive and Independent Federal Agencies. Congressional Record, v. 116, Jan. 26, 1970. p. 1077.

CASEWORK, AA'S, AND THE 1946 LEGISLATIVE REORGANIZATION ACT

By the 1940s it had become clear that attending to constituent needs was consuming large blocks of Members' time. In a report by the American Political Association's Committee on Congress, published in 1945, this fact was acknowledged and relief was called for. ^{3/} In that same year, at hearings before the Joint Committee on the Organization of the Congress, a number of Members and observers testified about this problem. To address it, many witnesses advocated the appointment of an administrative assistant who would assist Senators and Representatives in their office and departmental work. Members reported spending from 50-80 percent of their time occupied with non-legislative matters, including the handling of constituent requests before the departments. They urged deliverance from the growing burden of services to constituents. A few even argued that Members should be forbidden altogether from intervening on behalf of constituents. ^{4/}

In its report, the Joint Committee noted that "expansion of governmental activities during the past 25 years has vastly increased the volume of . . . requests for service" from constituents. ^{5/} It further stated that "while it is true that the Constitution does not place this burden directly upon the Congress, nevertheless service to constituents has long been an accepted part

^{3/} American Political Science Association. Committee on Congress. The Reorganization of Congress. Washington, Public Affairs Press, 1945. p. 78-81.

^{4/} U.S. Congress. Joint Committee on the Organization of Congress. Organization of Congress. Hearings, 79th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1945.

^{5/} U.S. Congress. Joint Committee on the Organization of Congress. Organization of Congress. H. Rept. No. 1675, 79th Cong., 2d Sess. Washington, U.S. Govt. Print. Off., 1946. p. 15.

of the job of a Member of Congress." 6/ This contact affords, said the Committee, one of the few remaining direct links between the citizen and his elected representative. Furthermore, it continued, no other agency or office of Government can perform this service "so cheaply or with the patience, understanding, and personal interest of congressional offices." Despite suggested alternative ways of rendering this service, therefore, the Committee concluded that "it is neither possible nor advisable" 7/ to do so.

Because in the past the Congress had already increased clerical assistance to Members, the Committee recommended that there be appointed "a competent assistant capable of assuming a large part of this service burden" so as to release Members for the performance of their legislative duties.

When the Senate subsequently passed its version of the Legislative Reorganization Act of 1946, it included a provision to that effect. The House, however, acted later and its version, which was accepted by the Senate due to the lateness of the session, did not contain the provision. Nevertheless, it was successfully argued by Senator Robert LaFollette, Jr., co-chairman of the Joint Committee on the Organization of Congress, which drafted the Legislative Reorganization Act, that these assistants should be appropriated for because the Senate had approved them. Within a short period of time, 91 of 96 Senators appointed such assistants. Subsequently, administrative assistants were also authorized for the staffs of House Members.

These actions were tantamount to statutory authority for caseworkers in congressional offices. Since 1946, of course, their number has grown commensurate with the magnitude of constituent requests for assistance in

6/ Ibid.

7/ Ibid., p. 16.

dealing with the many departments, agencies, and offices of the Federal Government. It is of both historical and current importance that casework has been perceived as a legitimate, necessary, and irreplaceable function of Members and their staffs and that the Congress explicitly recognized this four decades ago.

CRS AND CASEWORK

In its reorganization of the Congressional Research Service, the Legislative Reorganization Act of 1970 (P.L. 91-510) increased somewhat the resources available to Members for constituent services. Section 203 (a)(5) authorizes CRS--

. . . upon request, or upon its own initiative in anticipation of requests, to prepare and provide information, research, and reference materials and services to committees and Members of the Senate and House of Representatives and joint committees of Congress to assist them in their legislative and representative functions. . . .

Most CRS assistance is related to legislation or oversight, however; CRS assistance in casework is confined to furnishing readily available reports and other materials for Members and staff to respond to constituent inquiries.

RELEVANT STATUTORY PROVISIONS

Other statutes which might affect the casework capabilities of a congressional office are:

- 5 U.S.C. 3303, which prohibits appointing officers from considering or receiving a recommendation other than as to character or residency.

- 18 U.S.C. 201(c) and 201(g), which forbid Members from soliciting or receiving a bribe or anything of value for or because of any official act performed.
- 18 U.S.C. 203(a), which states that a Member may not be privately remunerated for interventions on behalf of casework; it sets forth penalties for:

Whoever . . . directly or indirectly received or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another

- 1) at a time when he is a member of Congress . . . ;
or
- 2) at a time when he is an officer or employee of the United States in the legislative . . . branch of the government . . .

House Standards of Conduct Advisory Opinion No. I further notes:

The Committee emphasizes that it is not herein interpreting this statute but notes that the law does refer to any compensation, directly or indirectly, for services by himself or another. In this connection, the Committee suggests the need for caution to prevent the accrual to a Member of any compensation for any such services which may be performed by a law firm in which the Member retains a residual interest.

The statutes cited above apply to officers and employees of the House of Representatives as well as to Members.

AGENCY INTERVENTION

Members of Congress are prohibited from ex parte communications (off-the-record communications by one party) and must abide by the rules which apply to all citizens making inquiries to Federal agencies [5 U.S.C. 557(d)]. This does not mean that they cannot contact agencies, but their communication may be made public under the ex parte rules of a particular agency.

The House Advisory Opinion No. 1 also commented on a Member of Congress's representations before Federal agencies:

This Committee is of the opinion that a Member of the House of Representatives, either on his own initiative or at the request of a petitioner, may properly communicate with an Executive or Independent Agency on any matter to:

- Request information or a status report;
- Urge prompt consideration;
- Arrange for interviews or appointments;
- Express judgment;
- Call for reconsideration of an administrative response which he believes is not supported by established law, Federal Regulation or legislative intent;
- Perform any other service of a similar nature in this area compatible with the criteria hereinafter expressed in this Advisory Opinion. 8/

Finally, 18 U.S.C. 205 forbids Government officials from privately handling, for remuneration, cases before Government tribunals on behalf of someone, but allows Members of Congress to do so without compensation. There are limits, however, on such Member representation. For example, Members are prohibited from appearing in maritime cases and before the Court of Claims and before the now defunct Indian Claims Commission.

PERFORMING CASEWORK

Members of Congress usually allocate casework responsibilities to one or more staff members who perform the sometimes complicated task of solving constituents' problems, or who at least investigate and refer them to other sources which may provide some relief.

Most casework involves problems regarding social security checks, benefits, and appeals; workmen's compensation claims, hearings, and appeals;

8/ Advisory Opinion No. 1, p. 1078.

military service problems, such as a hardship discharge from the service; veterans' pensions, loans and benefits; immigration problems; and other appeals for help. Although some problems appear to be more urgent than others, Members are probably best served when all appeals for help from their constituents are dealt with in a timely and personal way.

Frequently, when constituents seek assistance, they have probably done everything they know how to do and are coming to the Member's office as a last resort because they do not know where next to go for help. Often they feel caught in a bureaucratic labyrinth. Accordingly, they believe that a Member is their last chance for relief.

Responding to constituents' complaints and problems can give a Member an opportunity to determine whether the programs of the executive agencies are functioning in accordance with legislative mandates. Casework has the potential, therefore, to contribute to legislative oversight of agencies. Consequently, some offices make it a practice to bring casework observations to the attention of the pertinent authorizing committee(s), particularly if a pattern of variance from legislative intent become apparent.

Identifying the total problem should be the first step for a caseworker. Sometimes individuals do not provide the whole story. Occasionally people are lacking in their ability to communicate, or they may forget or omit crucial information. Obtaining such information enables the caseworker to proceed. For example, a social security number and the age of a recipient, or time and length of military service, may be necessary, certainly useful, in processing claims.

The next important step in handling casework is developing a working knowledge of Federal agencies. With the current trend of more and more casework being handled in district and State offices, it behooves caseworkers in both the Washington office and the district and State offices to have knowledge of the functions and structure of the relevant agency--in other words, what programs are available through which agencies, how are they administered, and what current legislation affects program eligibility. The regional offices of Federal agencies are the best source of this information for the district and State office caseworkers. Each regional office usually has a congressional liaison office, as well as one or more persons in program administration. Personal contacts with regional office personnel are invaluable. If casework is done in the Washington office, caseworkers might find personal contact with the responsible national Federal agency personnel to be beneficial. Regardless of where casework is done, caseworkers should know, and be able to tell constituents, their rights to appeal an adverse decision from the agency and whether any other recourse, such as reapplying, is available to them.

Members of Congress in increasing numbers seem to be receiving inquiries from constituents dealing with subjects or programs within the jurisdiction of State or local governments. In such instances, the Member office must decide upon an appropriate response to the constituent inquiry. Most Member offices routinely respond to constituent inquiries about local government issues by referring the matter to local officials. However, some Senate and House Members have directed their district and State office staff to work in conjunction with

State legislative staff and local government staffs as a means toward more efficient constituent services at the Federal, State, and local levels. Knowing the various sources of assistance, Federal and non-Federal, including social service agencies, welfare organizations and charities enable the caseworker to assist constituents more fully and expeditiously.

Casework should be conducted with sensitivity to constituent's personal privacy rights. Although neither the Freedom of Information Act nor the Privacy Act apply to Congress, both may be used by caseworkers to seek Federal department and agency records on behalf of constituents. The former law allows any person to request otherwise unpublished documents or papers on any subject, so long as the records being sought are reasonably described. The latter statute permits an American citizen or permanent resident alien to seek agency records or files pertaining exclusively to himself or herself. Qualifying conditions to the presumptive right of access are specified in both Acts.

General guidance to the Privacy Act is provided in an Office of Management and Budget memorandum of October 3, 1975, concerning "congressional inquiries which entail access to personal information subject to the Privacy Act." OMB recommends that, as a matter of policy, each agency, in administering the Privacy Act, should adhere to the position that disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

A letter of request from a constituent can be used as a Privacy Act release; or a form can be used stating, "I authorize Senator (or Representative) _____ to investigate my case and to receive information connected with it." An example of a form used by one Member's office follows:

PLEASE RETURN THIS FORM TO:

Senator (Representative) _____
United States Senate (House of Representatives)
Washington, D.C. 20510 (20515)

Date

TO WHOM IT MAY CONCERN:

I am aware that the Privacy Act of 1974 prohibits the
release of information in my file without my approval.

I authorize the _____
(name of Federal agency or department)

to provide information on my claim/case to Senator
(Representative) _____.

Signature

Address

Social Security number
or Claim number

Telephone number

If you wish information provided to parent, child, attorney,
or other interested party, please indicate below.

I authorize _____ to receive
information from Senator (Representative) _____
relative to my claim/case.

Signature

The form must be sent to the constituent for signature and return. When contacting an agency in behalf of a constituent, a caseworker may say, "This office has Mr. _____'s authorization to receive information about his case." Many agencies do not wish to see the form and will accept a verbal authorization. If they do require a form, a copy can be sent.

Every caseworker should develop his or her own approach for analyzing the nature of the constituent's problem at hand and how to generate the most expeditious resolution. Knowing where to go first is a good beginning and can save time. Some caseworkers develop their own telephone listing of contacts in the various agencies and retain the numbers of fellow Hill caseworkers who can assist with a lead, a telephone number, or advice based on their own casework experience.

It is also essential to track cases. A casework tracking system can be manual or automated. Tracking enables the caseworker to check progress on a case (so-called tickler files).

Casework can provide a Member with examples of service to constituents and, accordingly, should be brought to the Member's attention for possible use when communicating with them. Of particular value to the Member's press aide are human interest stories with happy endings which are the result of the intervention of the Member. Reports on successful cases are sometimes included in newsletters. The constituent's permission, of course, is required, but because he or she is usually as pleased with the results as the Member, this is seldom a problem.

CHARACTERISTICS OF GOOD CASEWORKERS

Caseworkers should have some very special characteristics. They should be personable, helpful, and able to elicit essential information from individuals who may have trouble stating their problem. They should also be compassionate, realizing that those in need may be desperate when they contact the Member. Finally, they should be well organized and know how to follow through.

When caseworkers read a letter, get a referral from other office staff, or receive a phone call from a constituent, they should make certain that all the relevant information needed to proceed is present. If not, they have to obtain it. Most caseworkers feel it is advisable to send an acknowledgement by letter to the constituent immediately upon receipt of the inquiry to let him or her know that the Member is aware of the request and is inquiring into the matter, and that the constituent will be contacted again when some word is forthcoming. This method establishes a basic office file in the name of the constituent, and is also a means of requesting additional information from the constituent, if needed.

The caseworker must then decide how best to transmit the case, either by phone, buck-slip, or letter, to the proper agency. The form of contact usually depends upon the degree of urgency. Whichever way one gets the message across to the agency, a case has to be tracked. While a letter usually is sent to the agency's head from the Member, it frequently helps to contact key agency staff likely to respond to a casework request. It is important for the caseworker to follow up on a case when no response has been received after a reasonable amount of time. Even if there is no word from the agency, an interim response should be sent to the constituent advising that the Member is still working

on the case. When the agency finally renders its determination, caseworkers have to read it as if they were the constituents. Rephrasing "bureaucratese" so that it is simple and direct is an essential task of casework.

Casework is not a one-person operation in a congressional office. It requires cooperation with the administrative assistant, legislative assistants, grants and projects staff, the office manager, the press secretary, the receptionist, and the Member's personal secretary, as well as staff in the district or State office(s). A caseworker's contribution to the other functions of the office can be very meaningful, as in telling the press secretary of a noteworthy case or pinpointing for legislative staff a law that may need changing.

When a case is finished, it is usually either good news or bad news for the constituent. Successful resolutions of constituent problems, more than anything else, are rewarding to the constituent, the Member and the caseworker. But there are times when it is not possible to achieve what the constituent has requested. Perhaps it is the appropriate denial of a loan, or an appointment to an academy granted to someone else, or an agency, well within its rights, not changing its mind about benefits. Caseworkers should know when to relent, when it is no longer worth the Member's or their time to continue. Non-Federal sources might be helpful in such instances. On the other hand, caseworkers should know when to persist in the face of agency recalcitrance and do their utmost to find out and inform constituents of their rights to appeal, to reapply, to request an evaluation of their application, or a review of their eligibility, and to seek any other recourse possible.

HANDLING CASES WHEN CLOSING A CONGRESSIONAL OFFICE

While the Member is still in office, closed cases may be kept on file for future reference. Open cases, on the other hand, are those that are not resolved or concluded when the Member leaves office. A Member has a number of options with regard to these cases. He/she may pass on open cases to his/her successor, assuming the successor is willing, and the constituent has granted approval. Sometimes however, this is not politically desirable. A retiring Member of the House may transfer open cases to one of the State's Senators, assuming a Senator is amenable. Or, rarely, open cases may be transferred to another Member of Congress after the approval of the constituent involved in the case has been obtained. Usually, Members deal only with cases from their own constituents. The files may be turned over to another office by transferring the files and informing the liaison offices that another Member will be taking over the cases. Nearly all congressional liaison offices in executive agencies will accept and follow instructions of the outgoing Member. The one exception, the Veterans Administration, will automatically close all pending cases when a Member of Congress leaves office. If there are no instructions, some liaison offices will continue the case with the succeeding Member from the State or District. Unless instructed otherwise by the departing Member, other liaison offices may continue to work on each case to conclusion, communicating only with the constituent. When a Member leaves office, it is advisable to check with the liaison office of each agency where any cases are pending. In addition, a Member could also return each case file to the constituent, with a letter explaining that he or she is leaving office and is no longer in a position to follow the case to a conclusion.