



## MEMORANDUM

To: Robert Grey; Chair, LSC Finance Committee;  
John Levi; Chair, Board of Directors;  
Jim Sandman, President

From: Steven Eppler-Epstein; Chair, NLADA Civil Policy Group  
Bob Gillett; Chair, Resources Committee  
Don Saunders; Vice President, Civil Legal Services

Date: June 10, 2015

Re: NLADA Recommendation for FY 2017 LSC Funding Request

NLADA appreciates the invitation from President Sandman and the board of directors to provide input as LSC begins consideration of its congressional funding request for Fiscal Year 2017. On behalf of NLADA's leadership and the many civil legal aid programs across the nation that we represent, we urge LSC to continue the aggressive budget advocacy it has pursued with Congress and OMB throughout the tenure of this board.

The FY 2016 request of \$486.9 million again indicates LSC's understanding of the enormity of the need for additional federal support for access to the civil justice system for all Americans, regardless of financial means. The request sent a strong signal to your grantees and the clients they serve of your commitment to equal justice in the United States and your understanding of the vast and overwhelming challenges your grantees face in responding to the legal needs of over 60 million people living below the poverty level.

NLADA urges LSC to seek an appropriation of at least **\$580 million for FY 2017**. This figure is similar to our FY 2016 recommendation, as the minimal cost of living increase and slight decrease in the poverty rate over the last year does not suggest an alteration. The landscape has not changed significantly with the \$10 million increase provided by Congress for FY 2015. Our justifications for the recommendation continue to be based upon the enormity of the unmet legal need among people living in poverty and the significant positive outcomes realized when civil legal aid is available.

### Addressing the Justice Gap

As we and many others have consistently indicated, the actual need for federal support for our civil justice system is much greater than the amount we recommend to you for FY 2017. The \$580 million figure is consistent with our past recommendations for measured, reasonable growth of federal support for civil legal aid that would close the 55% turn-away rate of applicants with meritorious claims reported in LSC's 2009 report *Documenting the Justice Gap in America*. Since that report was released, the financial situation facing legal aid providers in the country has rapidly deteriorated, while the population of people living in poverty has grown significantly as a result of the recession. A 2014 study in

Massachusetts found that 64% of eligible clients had to be turned away in that state. The true need is probably much greater, as these figures include only applicants who identified their problems as legal in nature and were able to find their way to a legal aid office.

We are acutely aware that LSC must present its FY 2017 request in an intensely competitive environment for very limited discretionary federal funding. That competition is reflected in the \$75 million (20%) cut recently adopted by the House of Representatives in its FY 2016 Commerce, Justice and Science appropriations bill. Yet, as the leadership of LSC has eloquently pointed out over the last year in support of its current request of \$486.9 million, justice and fairness are not optional values in our country. As the leading voice articulating the critical need for federal support for civil justice, you must continue to assert that our democracy's promise of equal justice remains a paramount priority of our nation, particularly in light of the enormous challenges facing your grantees.

Basic field funding for LSC grantees remains the block upon which the civil justice system in the United States is built. Grantees are able to implement new technologies, pro bono innovations, and other delivery techniques as part of their efforts to meet the legal needs of more than 60 million potential clients, who often are faced with potentially devastating problems. Many applicants require the direct assistance of a lawyer or paraprofessional, but capacity remains extraordinarily limited in all parts of the country. However, these challenges are not spread equally throughout the nation. Federal support is particularly critical on the Indian reservations, in the Deep South and Rocky Mountain regions, and for politically disfavored populations in need of justice. In a country founded on principles of equality and justice under the law, the quality of the justice system should not depend on where one lives.

The declining support at the federal level for LSC over the last 34 years is extraordinary and deeply troubling. LSC funding has fallen by 300% since 1981, while the number of eligible clients has grown by 50% over the same period of time. The impact of this declining support is seen in staff recruitment, morale and, most importantly, the capacity of programs to meet the needs of the poor facing legal needs essential to their lives. Many legal aid offices have closed and thousands of positions have been eliminated. At risk is the very notion of equal access to justice.

LSC has been a leader--not just in our field, but in the entire profession--in considering how to make scarce dollars go further in closing the Justice Gap. The Technology Innovations Grants program and the Technology Summit have both served to open up many avenues to serving more clients through technologies appropriate to both the subject matter of their case and their capacity to take advantage of available applications.

LSC grantees, with LSC's ample assistance, have responded to funding challenges with innovative new delivery systems. Courts and many legal aid programs have developed ways to help the exploding number of self-represented litigants understand the law, process and court procedures. They have worked hard in many states to expand the quality and impact of state-based access to justice commissions aimed at bringing a wide array of stakeholders to the table to support the delivery of quality, effective civil legal assistance.

The stagnation of funding, however, continues to be exacerbated by the failure of non-LSC revenue sources to keep up with the growing justice gap. While the most recent data compiled by the American Bar Association shows a slight increase in state legislative support and private fundraising, the steep decline in federal support, coupled with the drastic IOLTA losses resulting from the recession, has led to a continuing crisis in our justice system, as often articulated by the LSC board chair.

Indeed, the nation's justice gap would be far greater except for the fact that the original idea of funding a minimum legal aid infrastructure through LSC at the federal level has indeed led to significant, though disparate, growth in other revenue sources that add to the numbers of LSC-grantee attorneys in the field. However, there can be no mistake that a fundamental commitment of adequate resources at the **federal level** is the critical building block upon which the development of these other revenue streams within state justice communities has been constructed.

**An investment in LSC ensures fairness in our justice system and results in significant social and economic returns for both clients and society**

Your grantees serve as a critical and unique resource to help low-income people and their families escape the shackles of poverty and become self-sufficient members of society. Federal investment in legal aid empowers low-income people to take control of their lives and vastly increases the health and vitality of the communities in which they live.

The breadth of matters handled by LSC-grantees that have a profound impact in addressing serious human need is extraordinary. Every day legal aid lawyers in the United States assist people by:

- Providing a homeless veteran with the opportunity to obtain housing or find gainful employment;
- Giving children access to appropriate special education when necessary;
- Protecting homeowners from illegal evictions or foreclosures;
- Assuring that domestic violence survivors live in homes free of violence;
- Increasing household income by helping those who have lost their jobs access unemployment insurance, food stamps, and other needed public assistance;
- Protecting families and the elderly from unscrupulous contractors or debt collectors;
- Helping formerly incarcerated persons to qualify for employment or housing; or
- Helping individuals with disabilities gain to access Supplemental Security Income (SSI), medical insurance and/or care.

Legal aid offices are often the only provider of a full range of legal services to low income individuals, families and vulnerable populations in the communities that they serve. In addition to representation in individual cases, legal aid is part of a network of agencies providing services to the community's most vulnerable members. Many community organizations such as homeless shelters, domestic violence shelters, veteran organizations, housing counselors, child protective service agencies, case managers, and others rely on legal aid to help with legal barriers and emergencies to achieve positive outcomes for low income families.

As we have pointed out in prior commentary, a growing body of research documents the substantial positive outcomes generated by civil legal aid. Studies have been commissioned across the nation demonstrating the positive economic and social results generated by effective civil representation by legal aid programs. A compendium of much of that research can be viewed on NLADA's research website at: [www.legalaidresearch.org](http://www.legalaidresearch.org)

Two of the most recent of these studies provided more clear evidence of the value of investing in civil legal aid.

A March 2015 study in Alabama analyzed the potential economic impact and social return on investment in civil legal aid in family law, housing, public benefits, consumer protection, health care, and other community issues. The number of cases, direct value of services, and long-term outcome value were studied. The social return on investment was 1,554%. In other words, for every \$1 invested in Alabama legal aid during the year, the citizens of Alabama received \$15.54 of immediate and long-term financial benefits.

In New Mexico, a 2014 study reviewed the services provided by eight civil legal aid programs. The social return on investment was 356%. For every \$1 invested in New Mexico Legal Aid during the year, the citizens of New Mexico received \$3.56 of immediate and long-term consequential financial benefits.

Studies such as these clearly show that the federal investment in grantees of LSC is multiplied many times over in making low-income Americans more secure and providing opportunities to move out of the conditions of poverty negatively affecting themselves and their families.

### **SPECIFIC BUDGETARY ISSUES**

There are several specific issues that NLADA would like to recommend with respect to various lines within the FY 2017 request.

Because of the overwhelming need for basic field services (including agricultural worker and Native American grants) we believe that the great majority of LSC funding should be granted to programs to provide those services to clients rather than be earmarked for any special projects. Local control over priorities and expenditures has been an enduring principle that has brought great strength, flexibility and efficiency to the legal aid system over the past thirty-nine years. We urge you to continue to honor this principle as a general rule as you proceed in your administration of LSC.

However, we ask that funds be specifically allocated for three continuing LSC priorities 1) dedicated funding for agricultural worker representation; 2) continuation of the Herbert S. Garten Loan Repayment Assistance Program; and 3) Technology Initiative Grants.

- **Dedicated Agricultural Worker Funding.** We have been very involved in providing input to LSC management as it develops a recommendation for updating the data used to allocate funding for agricultural worker funding. NLADA strongly believes in the vital importance and necessity of continuing these grants and updating the data sources necessary to distribute them more appropriately under current agricultural realities. We very much appreciate the work of LSC management in developing a new system of allocation and look forward to continuing to provide input into the process until it reaches conclusion.
- **Herbert S. Garten Loan Repayment Assistance Program (LRAP).** NLADA remains committed to finding ways to assist legal aid lawyers in meeting the often staggering law school debt they face. We think that the reports to date of the Garten LRAP program indicate that it can play an important role in retaining high quality lawyers in LSC grantee programs. Additionally, you are aware that Congress has chosen to discontinue funding for the Civil Legal Assistance Attorney LRAP program and it appears unlikely that such funding will be forthcoming in the immediate future. The future of the 10-year loan forgiveness component of the College Cost Reduction and Affordability Act program has also come under recent scrutiny and may be subject to challenge in the 114<sup>th</sup> Congress. Therefore, we urge you to seek funding of at least **\$1 million** for loan

repayment assistance for FY 2017.

- **Technology Initiative Grants.** NLADA has worked in partnership with LSC and its grantees in helping the civil legal assistance community make great strides in using technological innovation to expand the reach and quality of legal services. The LSC Technology Initiative Grants (TIG) have played a vital role in helping states and local programs to improve their ability to use technology to better serve their clients and to develop a national infrastructure necessary to support state and local efforts. Therefore, we strongly support the continuation of the Technology Initiative Grant program. We recommend that the FY 2017 appropriation request contain at least **\$4 million** for TIG.

As we have suggested in prior years' memoranda, we also remain concerned about certain specific areas related to delivery that remain in need of study by LSC:

- **Native American Special Grants.** NLADA continues to request that LSC study methods to address the significant disparities in funding for Native American programs and to help develop strategies to improve the delivery of services to Native Americans.
- **Training and Other Assistance for Substantive Advocacy.** We remain concerned about the need for training, professional development and advocacy support within the legal aid community. In today's environment of shrinking budgets, these issues are often neglected. Failure to invest in professional growth and expertise is both a short term mistake and a long term threat to the entire vitality of the system. NLADA would like to engage in discussions with LSC about how it can work with the field to reinforce the importance of training and support and strengthen the capacity of the current system to meet these needs.
- **Pro Bono Innovations Fund.** Pro bono remains a critical component of the delivery system for civil legal assistance for the poor. We applaud the leadership on the issue shown by LSC, the Pro Bono Task Force and congressional leaders supportive of pro bono. NLADA supports the concept behind the Pro Bono Innovations Fund line and expects that significant creative thinking will be generated by the Fund, similar to that generated over the years by the Technology Initiatives Grant program. We recommend that LSC evaluate the best practices in pro bono innovation generated by the fund and give consideration over time to building the innovative component into the already-existing 12.5% of basic field funding already dedicated to supporting pro bono initiatives.

NLADA sincerely appreciates the commitment that every member of the LSC Board of Directors and staff has shown for advancing federal support for LSC. We recognize and commend your work with the Congress and the White House during the entirety of your time in office. We stand willing to support your efforts in any way we can.